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Date: 21 June 2012
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CONSTITUTIONAL REVIEW WORKING PARTY

26 JUNE 2012

A meeting of the Constitutional Review Working Party will be held at **10.00 am on Tuesday, 26 June 2012** in the Chairman's Office, 1st Floor, Council Offices.

Membership:

Independent Members: Mr R Hills (Chairman) and Mrs L Frampton (Vice-Chairman);

Councillors: Hayton, Nicholson, Watkins and Wright

A G E N D A

Item
No

Subject

1. **APOLOGIES FOR ABSENCE**

2. **DECLARATIONS OF INTEREST**

To receive any declarations of interest. Members are advised to consider the extract from the Standard Board Code of Conduct for Members, which forms part of the Declaration of Interest form at the back of this agenda. If a Member declares an interest, they should complete that form and hand it to the officer clerking the meeting.

3. **MINUTES OF PREVIOUS MEETING** (Pages 1 - 4)

To approve the Minutes of the Constitutional Review Working Party meeting held on 26 April 2012, copy attached.

4. **LOCALISM ACT 2011 - REVISED MEMBERS CODE OF CONDUCT, ARRANGEMENTS FOR DEALING WITH COMPLAINTS AND CONSEQUENTIAL AND RELATED MATTERS** (Pages 5 - 62)

5. **REVIEW OF THE CONSTITUTIONAL PROCESSES APPLYING TO URGENT DECISIONS** (Pages 63 - 66)

6. **LEADER'S REPORT** (Pages 67 - 70)

Declaration of Interest form - back of agenda

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CONSTITUTIONAL REVIEW WORKING PARTY

Minutes of the meeting held on 26 April 2012 at 9.30 am in Austen Room, Council Offices, Cecil Street, Margate, Kent.

Present: Mr Robin Hills (Chairman); Councillors Hayton, Nicholson, Watkins and Wright

In Attendance: Councillors Campbell and King

VARIATION OF AGENDA

It was agreed that Agenda Item No. 5, "Governance & Audit Committee – Terms of Reference" should be taken immediately before Item No. 4, "Future Code of Conduct Complaints System".

22. APOLOGIES FOR ABSENCE

An apology for absence was received from Mr Hinchley.

The Chairman informed Members that, owing to changed job circumstances, Mr Hinchley had indicated an intention to tender his resignation as an Independent Member of Council.

The Working Party paid tribute to Mr Hinchley on his valuable contribution to its work and wished him well for the future.

23. DECLARATIONS OF INTEREST

The Chairman declared a personal interest in Agenda Item No. 4, "Future Code of Conduct Complaints System" (Minute No. 26 refers).

24. MINUTES OF PREVIOUS MEETING

On the proposal of Councillor Watkins, seconded by Councillor Nicholson, the minutes of the meeting of the Working Party held on 15 February 2011 were approved and signed by the Chairman.

25. GOVERNANCE & AUDIT COMMITTEE - TERMS OF REFERENCE

Councillor Campbell, Vice-Chairman of Governance & Audit Committee, spoke under Council Procedure Rule 24.1.

Nikki Morris, Business Support & Compliance Manager, presented her report and, in so doing, stated that the Council's Senior Management Team was of the view that the following proposed change in the Terms of Reference (Annex 1);

"To recommend to Cabinet the Council's policy in Equalities (PSED)"

should be deleted.

In support of this view, Harvey Patterson, Monitoring Officer, pointed out that policy development was ultimately the responsibility of Cabinet.

Councillor Campbell stated that, as he understood it, the intended role of the Governance & Audit Committee in relation to the equalities policy would be one of assessing the robustness of the policy and its implementation and making recommendations to Cabinet, as the Committee deemed necessary.

On the proposal of Councillor Hayton, seconded by Councillor Wright, it was AGREED TO RECOMMEND to the Standards Committee that the revised Terms of Reference, as attached as Annex 1 to the Report, be approved and referred to Council for ratification.

26. FUTURE CODE OF CONDUCT COMPLAINTS SYSTEM

As an Independent Member serving on the Standards Committee, the Chairman declared a personal interest in this item (Minute No. 23 refers).

Councillor Campbell spoke under Council Procedure Rule 24.1.

The Chairman expressed disappointment that he had not been consulted on the report prior to publication and despatch.

Councillor Campbell stated that, in his view, the informal Standards Working Party should have had an opportunity to consider the report before the Constitutional Review Working Party.

The Monitoring Officer explained that it had not been possible to engage the Standards Working Party on the report, for reasons set out in paragraph 1.5. He also pointed out that it now seemed unlikely that Chapter 7 of the Localism Act 2011 would come into full force and effect by 1 July 2011.

All Members of the Working Party felt that, in view of the lateness of receipt of the report, they had not had time to properly consider its contents.

On the proposal of Councillor Nicholson, seconded by Councillor Hayton, it was AGREED TO RECOMMEND to Standards Committee:

1. that the current Standards committee, sub-committees, processes and Code of Conduct continue until Chapter 7 of the Localism Act 2011 comes into effect;
2. that the remainder of the report be deferred to enable the Standards Working Party to consider it first and submit its comments to the Constitutional Review Working Party, prior to onward referral to the Standards Committee and Council.

27. REVIEW OF THE CONSTITUTIONAL PROCESSES APPLYING TO URGENT DECISIONS

Councillor Campbell spoke under Council Procedure Rule 24.1.

In response to a Member's query, the Democratic Services & Scrutiny Manager pointed out that the "5 days" referred to at paragraphs 2.6.1 & 2.6.2 of the report and the "5 clear days" referred to at paragraph 2.7 should read, "5 clear working days".

Following consideration of the report, it was proposed by Councillor Nicholson, seconded by Councillor Watkins and AGREED TO RECOMMEND to Standards Committee:

"That Access to Information Procedure Rule 20.1 be amended to read:

'20.1 Reports intended to be taken into account

'When an individual Cabinet member is taking a key decision they must make that decision considering a report from the relevant officer and that decision must not be made until 5 clear working days after receipt of that report.

'When an officer is taking a key decision they must make that decision considering a report and that decision must not be made until 5 clear working days after the receipt of that report'".

28. LEADER'S REPORT

Councillors Campbell and King spoke under Council Procedure Rule 24.1.

Following discussion, it was AGREED TO RECOMMEND to Standards Committee, on the proposal of Councillor Hayton, seconded by Councillor Wright:

That Council Procedure Rule 2.2 be amended as follows:

"The Leader of the Council may make an oral report, not exceeding ten minutes, on key issues arising since the last meeting of Council.

"The Leaders of ~~the Opposition~~ any other Political Group may comment on the Leader's Report. The comments of the Leaders of the ~~Opposition~~ and other Political Groups shall be limited each to five minutes. The other Group Leaders will comment in an order determined by the number of Councillors within those Political Groups, with the largest Group commenting first, and so on.

"The Leader has a right of reply, limited to ~~two~~ five minutes, to any comments made on his/her report.

~~"Other members may make comments and ask questions on the Leaders' Report, subject to the discretion of the Chairman and t~~ The total time (including time slots as mentioned above) ~~being~~ will be limited to 30 minutes.

"The Leader of the Council, ~~the Leader of the Opposition~~ and the Leader of any other Political Group may appoint substitutes to speak on their behalf.

"No motions may be moved nor resolutions passed under this item."

Meeting concluded : 10.45 am

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LOCALISM ACT 2011 - REVISED MEMBERS CODE OF CONDUCT, ARRANGEMENTS FOR DEALING WITH COMPLAINTS AND CONSEQUENTIAL AND RELATED MATTERS

To: **Standards Working Party - 22 June 2012**
Constitutional Review Working Party - 26 June 2012
Standards Committee - 28 June 2012

By: Harvey Patterson, Monitoring Officer

Classification: Unrestricted

Summary:

To consider :

- (i) a Revised Members Code of Conduct based on the Kent Members Code of Conduct drafted by the Kent Secretaries Group;**
 - (ii) The Terms of Reference for a Voluntary Standards Committee;**
 - (iii) Draft 'Arrangements' for dealing with a complaint alleging a failure by a Member to comply with the Members Code of Conduct; and**
 - (iv) Consequential amendments to the Council Procedure Rules and the Scheme of Delegations to Officers and related transitional arrangements.**
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1.0 Introduction and Background

1.1 Members will be aware that Chapter 7 of the Localism Act 2011 introduced a revised Members Standards Framework for local authorities in England. In terms of the Council's approach to the emerging Framework, on 14 July 2011 full Council agreed a number of key principles as follows (Minute 29/2011 refers):-

- 1.1.1 The principle of adopting a voluntary Code of Conduct for elected and co-opted Members of Thanet District Council upon the abolition of the mandatory Code of Conduct;
- 1.1.2 Upon the abolition of the statutory Standards Committee, the principle of establishing a voluntary Standards Committee to promote and maintain high standards of ethical conduct and to provide advice and guidance to Members on compliance with the Voluntary Code of Conduct;
- 1.1.3 The principle that the voluntary Standards Committee be composed of elected Councillors and co-opted Independent Members in proportions to be agreed by full Council;
- 1.1.4 The principle that in advance of the abolition of the current Standards Framework, the statutory Standards Committee in consultation with the Group Leaders, be responsible for formulating :
 - a voluntary Code of Conduct for elected and co-opted Members of Thanet District Council;

- the Terms of Reference for a voluntary Standards Committee which includes members of the public;
- cost effective and efficient procedures for the investigation and determination of complaints alleging a breach of the voluntary Code of Conduct.

1.1.5 The principle of establishing an informal cross-party member working party to consider putting forward suggestions to make the Standards Regime more Member-friendly.

1.2 Members will further recall that the Standards Working Party was duly established by the Group Leaders and met for the first time on 19 December 2011. At the meeting the Monitoring Officer advised the Working Party that Chapter 7 of the Localism Bill (as it then was) had been substantially amended in the third reading in the House of Lords and that the Bill had received Royal Assent on the 15 November 2011. He summarised the revised Standards Framework as follows:

- (i) The Council had a duty to promote and maintain high standards of conduct;
- (ii) The Council was required to adopt a Code of Conduct for elected and co-opted members;
- (iii) The new Code of Conduct had to be consistent with the seven 'Nolan' Principles - Selflessness; Integrity; Objectivity; Accountability; Openness; Honesty and Leadership;
- (iv) The new Code of Conduct had to include a requirement for Members to register and disclose pecuniary interests and interests other than pecuniary interests;
- (v) The adoption, revision or replacement of the new a Code of Conduct had to be publicised to bring it to the attention of persons living in Thanet;
- (vi) The current requirement to have Standards Committee's was replaced by a requirement on the Council to adopt 'arrangements' to deal with complaints alleging a breach of the Code of Conduct;
- (vii) Those arrangements had to include provision for the Council to appoint at least one 'Independent Person' whose views had to be sought and taken into account before the Council made a decision on a complaint that it had decided to investigate;
- (viii) Town and Parish Councils were also required to have a Code of Conduct, but could adopt the District Council's Code of Conduct as their own Code of Conduct;
- (ix) The Council's arrangements had to include 'arrangements' for dealing with complaints in relation to Town and Parish Councillors;
- (x) The Council's arrangements had also to include provision for allowing the views of the Independent Person to be sought by a District, Town or Parish Councillor whose conduct was the subject of a complaint;
- (xi) The Independent Person would have an influencing role but could not be a co-opted member of a voluntary Standards Committee;
- (xii) The appointment of the Independent Person had to be advertised publicly, applicants had to complete an application form and any appointment would be

made by full Council acting on the recommendations of the Standards Appointments Working Party;

- (xiii) The Independent Person could receive an allowance and expenses for performing the duties of his or her appointment;
 - (xiii) The Monitoring Officer would have to continue to maintain a Register of Interests for both District and Town/Parish councillors and subject to the Regulations to be made by the Secretary of State in relation to the registration of Disclosable Pecuniary Interests, it would be for the Council to decide what interests should be entered on the Register; and
 - (xiv) A failure by a Member to comply with the registration and disclosure requirements in respect of Disclosable Pecuniary interests risked committing a criminal offence punishable on summary conviction by a fine of up to £2,500 and disqualification from office for a period of up to five years.
- 1.3 The Working Party noted that beginning in 2012 the Kent Secretaries Group was aiming to draft a Kent wide Members Code of Conduct together with related arrangements for dealing with complaints that could operate across the three tiers of local government in the County. The Working Party further noted that the Secretary of State intended to make Regulations prescribing the categories of interests that would constitute Disclosable Pecuniary Interests (DPI'S) and the registration and disclosure requirements to be applied to Members when they had such interests. Accordingly, the Working Party agreed to meet again when the Kent Members Code of Conduct had been drafted and the Secretary of State had made the relevant Regulations.
- 1.4 By the beginning of April 2012 the Secretary of State had not published the Regulations on DPI's nor, partly for that reason, had the Kent Secretaries Group completed the drafting of the Kent Members Code of Conduct or the related arrangements for dealing with complaints. However, as the Department for Communities and Local Government (CLG) were indicating a possible commencement date for the new Standards Framework of 1 July 2012, the Monitoring Officer submitted a report to the Constitutional Review Working Party (CRWP) on 26 April 2012 outlining proposals for the arrangements to be adopted for complaints management under the new Framework. Those included:
- 1.4.1 The structure and membership of a new voluntary Standards Committee and sub-committees
 - 1.4.2 The process for dealing with allegations that a Member may have breached the Council's Code of Conduct
 - 1.4.3 Arrangements relating to dispensations, and so on.
- 1.5 The Monitoring Officer explained that in the available time frame it had not been possible to consult the Standards Review Working Party prior to consideration by the Constitutional Review Working Party if the arrangements were to be considered by Council at the Annual Meeting on 17 May 2012. However the Standards Review Working Party would meet prior to consideration of the proposed arrangements by the Standards Committee and therefore the recommendations of the Working Party would be reported to the Standards Committee alongside the recommendation of the Constitutional Review Working Party.
- 1.6 The Constitutional Review Working Party rejected that approach, considering that it was important that the Standards Review Working Party reported as intended to the Constitutional Review Working Party, The Standards Committee could then make recommendations to full Council on 12 July 2012 in the knowledge of whether the pending regulations would, for example permit an existing Independent Member of the Standards

Committee to be eligible for appointment as an Independent Person under the new Framework.

1.7 The Constitutional Review Working Party therefore agreed to recommend to the Standards Committee the following interim arrangements:-

1.7.1 That the current Members Code of Conduct be adopted as the Code of Conduct for elected and co-opted members of Thanet District Council for the Council year 2012/13

1.7.2 That the current statutory Standards Committee, Sub-Committees, processes and Code of Conduct be established at the Annual Meeting of Council to continue until Chapter 7 of the Localism Act 2011 comes into full force and effect ; and,

1.7.3 That the remainder of the report be deferred to enable the Standards Working Party to consider it first and submit its comments to the Constitutional Review Working Party, prior to onwards referral to the Standards Committee and Council.

1.8 On 9 May 2012 the Standards Committee considered, the interim arrangements recommended by the Constitutional Review Working Party and agreed to recommend to the Annual Meeting of Council as follows:

1.8.1 That the current Members Code of Conduct be adopted as the Code of Conduct for elected and co-opted members of Thanet District Council for the Council year 2012/13 until a replacement Code under the Localism Act can be adopted.

1.8.2 That the current Committee arrangements be re-established at Annual Council on 17 May 2012, that is to say;

(i) For the Standards Committee, seven elected Councillors, four appointed Independent (non councillor) Members and three nominated Town/ Parish Representatives; and

(ii) For the Standards (Assessment and Appeal) Sub Committee and the Standards Hearings Sub Committee, a continuation of the current structure and membership.

1.8.3 That the Monitoring Officer be given delegated authority to prepare a job description for the role of Independent Person and commence the recruitment procedure for two Independent Persons using the Standards Appointments Working Party to make recommendations to Council.

1.8.4 That the current complaints procedure be continued until Council adopts new procedures under the Localism Act 2011.

1.9 Council agreed and adopted the recommendations of the Standards Committee at the Annual Meeting of Council held on 17 May 2012 (Minute 7/2012 refers).

2.0 Current position

2.1 As the Regulations on DPI's had not been made by the date of the Annual Meeting it was considered that the Secretary of State would now make and publish transitional arrangements that would defer the implementation of the new Framework and continue the current regime until 1 September 2012. However, on 6 June 2012 the Secretary of State made the Local Authorities (Disclosable Pecuniary Interests) Regulation 2012 and the Localism Act 2011 (Commencement No.6 and Transitional, Savings and Transitory Provisions) Order 2012 of which Article 5 of the latter brought the Standards Framework into effect on 1 July 2012 notwithstanding that the late publication of the DPI Regulations

would mean that the hardly any Council in England would have a Code of Conduct and related arrangements in place by the implementation date. In fact the only consolation was that Article 7 of the Commencement No.6 Order temporarily relieved the rigour of Section 28 (8)(b) of the Localism Act 2011 by authorising the Council to appoint an existing Independent Member of the statutory Standards Committee to the role of Independent Person, provided such appointment was made by the Council before 1 July 2013.

- 2.2 For the avoidance of doubt the implications of the implementation of the New Standards Framework are that as at midnight on 30 June 2012 the statutory Standards Committee and its Sub Committees will cease to exist and that any complaints begun but not completed under the existing arrangements will be treated as if they had been made under the new arrangements (when adopted). Moreover, as the Constitution provides that It is the Standards Committee that makes recommendations to the Council on Standards and Constitutional matters, a draft revised Members Code of Conduct and related complaint management arrangements would have to be consider by the statutory Standards Committee prior to its abolition on 30 June 2012.
- 2.3 As a result the Kent Secretaries Group accelerated its programme of meetings and concluded its work on the Kent members Code of Conduct and related complaints handling arrangements on 18 June 2012. These are presented as Annexes to this report along with draft Terms of Reference for a voluntary Standards Committee. The report will indicate where any of the proposed arrangements differ from those recommended by the Kent Secretaries Group.

3.0 Draft Members Code of Conduct - the Kent Code

- 3.1 The proposed Kent Members Code of Conduct is set out at **Annex 1**. Member will note that it does not contain a general conduct obligation to treat others with respect although it will require Members not to bring their office or the Council into disrepute. In addition, the scope of the Code is limited to when Members are acting in an official capacity but does not make it clear that acting as a Member or co-opted Member of the Council can include when a Member '**acts, claim to act or give the impression that they are acting**' as a member or co-opted Member of the Council. Members may therefore wish to consider amending the Kent Code in these two respects.

Disclosable Pecuniary Interests

- 3.2 Member will also note that the Preamble to the Kent Code describes the circumstances in which a criminal offence may be committed by a Member for non compliance with the registration and disclosure requirements that apply in relation to Disclosable Pecuniary Interests. These are defined in Paragraph 2.1 of the Kent Code and described in detail at Annex 2 of the Code - which is a direct lift from the DPI Regulations. Paragraph 4 of the Kent Code records the registration requirements that will apply to DPI's and Paragraph 5 deals with declarations at relevant meetings of the Council or a joint committee
- 3.3 In particular, Members should note that the Registration requirements set out in Paragraph 4 of the Kent Code exceed the statutory requirements as the statutory provisions only require Members to enter a DPI on the Register of Members Interests by notifying the Monitoring Officer within 28 day of election or co-option, nor do they require Members to notify the Monitoring Officer of any changes in those interests unless they are (or ought to be) the subject of a declaration at a meeting. In summary, Paragraph 4 of the Kent Code borrows on the current Code of Conduct by also requiring Members to notify DPI's to the Monitoring Officer with 28 days of adoption of the Kent Code and also to notify the Monitoring Officer within 28 days of becoming aware of any changes in those interests.
- 3.4 There are two further but very important change in relation to DPI's that should be drawn to Member attention. At present the Register of Members Interests is limited to the

prescribed interests of the Member personally whereas the DPI Regulations define a Disclosable Pecuniary Interest to include the interests (so far as the Member is aware of them) of a Member's spouse or civil partner, The second important change is that in addition to the right of public inspection of the Register of Members Interests, the Register, including the interests of spouses/civil partners, must be published on the Council's web site.

Disclosure of a DPI at Meetings

- 3.5 Paragraph 5 of the Kent Code provides that where Members are present at a meeting and have a DPI in any matter to be considered or being considered, they must disclose the existence of the DPI and explain its nature (unless in the latter case the Monitoring Officer has agreed that the DPI is a Sensitive Interest) . The Member must also (unless they have been granted a Dispensation) not speak or vote on the matter and withdraw from the meeting in accordance with the Authorities Procedure Rules. The Member must also not seek to improperly influence a decision about that business – i.e. they must not lobby any of the decision makers. The latter two requirements- to leave the meeting room and not to seek to improperly influence a decision on the matter, reflects current practice in relation to Prejudicial Interests but exceed the statutory requirements

Other Significant Interests

- 3.6 The Kent Code also introduces a second, non registrable interests that must be declared at relevant meetings - the Other Significant Interest - defined in Paragraph 2.1 of the Kent Code to broadly reflect the current Code of Conduct definition of a Prejudicial Interest; that is to say an interest (other than (other than a Disclosable Pecuniary Interest or an interest in an Authority Function) which

- (i) affects the financial position of the Member and/or an Associated Person; or
- (ii) relates to the determination of your application for any approval, consent, licence, permission or registration made by, or on behalf of the Member and/or an Associated Person;

and which, in either case, a member of the public with knowledge of the relevant facts would reasonably regard as being so significant that it is likely to prejudice the Members judgment of the public interest.

- 3.7 Consequently, Members will not only have to declare an Other Significant Interest at a relevant meeting in relation to themselves but also in relation to an 'Associated Person' (in so far as they are aware of the existence of such interest). An Associated Person is defined as follows:

- (a) a family member or any other person with whom you have a close association, including your spouse, civil partner, or somebody with whom you are living as a husband or wife, or as if you are civil partners; or
- (b) any person or body who employs or has appointed such persons, any firm in which they are a partner, or any company of which they are directors; or
- (c) any person or body in whom such persons have a beneficial interest in a class of securities exceeding the nominal value of £25,000; or
- (d) any body of which you are in a position of general control or management and to which you are appointed or nominated by the Authority; or

- (e) any body in respect of which you are in a position of general control or management and which:
 - (i) exercises functions of a public nature; or
 - (ii) is directed to charitable purposes; or
 - (iii) has as its principal purpose or one of its principal purposes the influence of public opinion or policy (including any political party or trade union).

3.8 The actions to be taken by a Member when declaring a Significant Interest are the same as for DPI's - unless the Member has been granted a Dispensation - not to speak, and/or vote on the matter but to leave the meeting room during its consideration. Members must also not seek to improperly influence a decision on the matter.

3.9 Members attention is also drawn to Paragraph 5.4 of the Kent Code which only applies to Significant Interests and which mirrors a relieving provision in the current Code of Conduct in relation to Prejudicial Interests by enabling a Member to speak on an item in respect of which they have a Significant Interest provided the public can also speak at the same meeting, the Member declares the interest in the usual way and then leaves the meeting after speaking.

Gifts & Hospitality

3.10 Paragraph 7.0 of the Kent Code increases the current threshold of declaring Gifts and Hospitality from £25 to £100. Members may wish to amend this threshold.

4.0 Draft Terms of Reference - Voluntary Standards Committee

4.1 Council is recommended to establish a voluntary Standards Committee to fulfil the duty to promote and maintain high standards of conduct by Members and co-opted Members. It is further recommended that in accordance with the guiding principles set down by the Council last year, the voluntary Standards Committee comprises seven elected and seven co-opted Members, four of the co-opted Members being Independent (non councillor) Members and three being Town or Parish Councillors. Strict political balance rules will apply to the elected Members and is therefore recommended that strict political balance is waived by Council in favour of the 'approximate' political balance applied to the current statutory Standards Committee which enables the Council to appoint an elected member from one of the small Independent Party Groups. As the voluntary Standards Committee is mainly a recommending body the co-opted Members will be able to vote on such matters and Council can also consider appointing one of the Independent Members as Chairman and Vice-Chairman.

4.2 It is also recommended that when established, the voluntary Standards Committee establishes two Sub Committees - the Standards (Assessment) Sub Committee and the Standards (Hearings) Sub Committee - the former to recommend to the Monitoring Officer how complaints should be dealt with and the latter to conduct a hearing and make findings in relation to a complaints that has been referred to it.

4.3 Draft Terms of Reference for a voluntary Standards Committee, Standards (Assessment) Sub Committee and Standards (Hearings) Sub Committee are attached for consideration as **Annex 2**. Members will also note the dispensation powers that Council is requested to delegate to the Standards Committee.

5.0 Draft Arrangements for Dealing With Complaints

- 5.1 Draft Arrangements for Member complaints handling are set out at **Annex 3**. The Statement of Arrangements incorporates four Annexes. Annex 1 is a Complaints Form (which is still in the process of being finalised) Annex 2 is the Procedures to be Adopted on receipt of a Complaint, Annex 3 relates to the appointment of an Investigating Officer and the conduct of an investigation and Annex 4 sets out a proposed procedure for the conduct of a Hearing.
- 5.2 The proposed arrangements follow the Kent Secretaries Model Arrangements but with two major differences. Firstly, the Kent Secretaries Model envisages all assessment/filtering decisions to be taken by the Monitoring Officer in consultation with the 'Independent Person' whereas Council is being asked to delegate this function to the Monitoring Officer in consultation with the Standards (Assessment) Sub Committee - as this will enable the Sub Committee (as an advisory Sub Committee) to be chaired by one of the co-opted Independent Members and for one of the co-opted Town/Parish Councillors to be appointed to the Sub Committee where the complaint is against a Town or Parish Councillor. The second major difference is in the composition of the Standards (Hearings) Sub Committee where it is proposed that one of the co-opted Independent Members is appointed to the Sub Committee as a non voting Member.

6.0 Consequential and Related Matters

- 6.1 The adoption of the Kent Members Code of Conduct and Model Arrangement (with appropriate amendments) will require some consequential and related amendments to the Constitution and Officer Scheme of Delegations. The Council Procedure Rules need to be amended to require Members to leave the Meeting Room when a Disclosable Pecuniary Interest or a Significant Interest has been declared and the Scheme of Delegations to Officers will need to be amended to enable the Monitoring Officer to:
- (i) take initial assessment decisions in consultation with the Standards (Assessment) Sub Committee;
 - (ii) appoint Members to the Standards (Assessment) Sub Committee and the Standards (Hearings) Sub Committee; and
 - (iii) grant dispensations to Members in circumstances where to not grant a dispensation would adversely affect political balance or mean that the meeting would not be quorate.- in the former case the dispensation to be to permit the Member to remain in the meeting and speak and vote and in the latter case to permit the Member to remain in the meeting only to count toward at quorum
- 6.2 Members will note that it is proposed that the voluntary Standards Committee will have more extensive dispensation powers. However, it is consider necessary to delegate the more limited dispensation powers referred to above to the Monitoring Officer due to the impracticality of convening a meeting of the full Standards Committee to consider a single dispensation request from a Member.

- 6.4 Draft consequential amendments are attached for Members consideration as **Annex 4**.

7.0 Corporate Implications

7.1 Financial and VAT

- 7.1.1 There are no financial implications arising from this report.

7.2 Legal

- 7.2.1 As set out in the report

7.3 Corporate

7.3.1 The Council has duty to promote and maintain ethical standards by elected an co-opted Members

8.0 Recommendations

8.1 To consider and a recommend for approval and adoption, with or without amendment:-

8.1.1 The terms of the draft Kent Members Code of Conduct at Annex 1.

8.1.2 The draft Terms of Reference for a voluntary Standards Committee including the Terms of Reference for a Standards (Assessment) Sub Committee and a Standards (Hearings) Sub Committee at Annex 2

8.1.3 The terms of the draft Arrangements for the management of complaints at Annex 3.

8.1.4 The proposed amendments to the Council Procedure Rules and Scheme of Delegations to Officers at Annex 4

9.0 Decision Making Process

9.1 Recommendations from the Standards Committee are reported to Council for a final decision.

Contact Officer:	<i>Harvey Patterson, Corporate & Regulatory Services Manager</i>
Reporting to:	<i>Dr Sue McGonigal, Chief Executive</i>

Background Papers

Title	Details of where to access copy
<i>Localism Act 2011</i>	http://www.legislation.gov.uk/ukpga/2011/20/contents/enacted

Annexes

Annex 1	Draft Kent Members Code of Conduct
Annex 2	Draft Terms of Reference for a voluntary Standards Committee, including the Terms of Reference for Standards (Assessment) Sub-Committee and a Standards (Hearings) Sub-Committee
Annex 3	Terms of the draft Arrangements for the management of complaints
Annex 4	Proposed amendments to the Council Procedure Rules and Scheme of Delegations to Officers

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THANET DISTRICT COUNCIL

Draft/KENT CODE OF CONDUCT FOR MEMBERS

1.0 PREAMBLE

- 1.1 The Code of Conduct that follows is adopted under section 27(2) of the Localism Act 2011.
- 1.2 The Code applies to you as a Member or Co-opted Member of the Thanet District Council when acting in that capacity.
- 1.3 The Code is based on the Seven Principles of Public Life under section 28(1) of the Localism Act 2011, which are set out in **Annex 1**.
- 1.4 This Preamble and the Principles and associated commentary do not form part of the Code, but you should have regard to them as they will help you to comply with the Code.
- 1.5 If you need guidance on any matter under the Code, you should seek it from the Monitoring Officer or your own legal adviser - but it is entirely your responsibility to comply with the provisions of this Code.
- 1.6 In accordance with section 34 of the Localism Act 2011, where you have a Disclosable Pecuniary Interest, it is a criminal offence if without reasonable excuse you:
 - Fail to notify the authority's Monitoring Officer of the interest before the end of 28 days beginning with the day on which you became a member.
 - Fail to disclose the interest at meetings where the interest is not entered in the authority's register.
 - Fail to notify the authority's Monitoring Officer of the interest before the end of 28 days beginning with the date of disclosure at a meeting, if the interest is not entered in the authority's register and is not the subject of a pending notification.

- Take part in discussion or votes, or further discussions or votes, at meetings on matters in which you have the interest which are being considered at the meeting.
- Fail to notify the authority's Monitoring Officer of the interest before the end of 28 days beginning with the date when you become aware that you have such an interest in a matter to be dealt with, or being dealt with, by you acting alone in the course of discharging a function of the authority.
- Take any step in relation to a matter being dealt with by you acting alone in the course of discharging a function of the authority, except a step for the purpose of enabling the matter to be dealt with otherwise than by you.
- knowingly or recklessly provide false or misleading information in any of the above disclosures or notifications.

1.7 Any written allegation received by the Authority that you have failed to comply with the Code will be dealt with under the arrangements adopted by the Authority for such purposes. If it is found that you have failed to comply with the Code, the Authority may have regard to this failure in deciding whether to take action and, if so, what action to take in relation to you.

2.0 THE CODE

2.1 Interpretation

In this Code:

“Associated Person” means (either in the singular or in the plural):

- (a) a family member or any other person with whom you have a close association, including your spouse, civil partner, or somebody with whom you are living as a husband or wife, or as if you are civil partners; or
- (b) any person or body who employs or has appointed such persons, any firm in which they are a partner, or any company of which they are directors; or
- (c) any person or body in whom such persons have a beneficial interest in a class of securities exceeding the nominal value of £25,000; or
- (d) any body of which you are in a position of general control or management and to which you are appointed or nominated by the Authority; or
- (e) any body in respect of which you are in a position of general control or management and which:

- (i) exercises functions of a public nature; or
- (ii) is directed to charitable purposes; or
- (iii) has as its principal purpose or one of its principal purposes the influence of public opinion or policy (including any political party or trade union).

“Authority” means Thanet District Council.

“Authority Function” means any one or more of the following interests that relate to the functions of the Authority:

- (a) housing - where you are a tenant of the Authority provided that those functions do not relate particularly to your tenancy or lease; or
- (b) school meals or school transport and travelling expenses - where you are a parent or guardian of a child in full time education, or are a parent governor of a school, unless it relates particularly to the school which your child attends;
- (c) statutory sick pay under Part XI of the Social Security Contributions and Benefits Act 1992 - where you are in receipt of, or are entitled to the receipt of, such pay;
- (d) an allowance, payment or indemnity given to members of the Authority;
- (e) any ceremonial honour given to members of the Authority;
- (f) setting council tax or a precept under the Local Government Finance Act 1992.

“Code” means this Code of Conduct.

“Co-opted Member” means a person who is not an elected member of the Authority but who is a member of:

- (a) any committee or sub-committee of the Authority, or
- (b) and represents the Authority on, any joint committee or joint sub-committee of the Authority; and
- (c) who is entitled to vote on any question that falls to be decided at any Meeting.

“Disclosable Pecuniary Interest” means those interests of a description specified in regulations made by the Secretary of State (as amended from time to time) as set out in **Annex 2** and where either it is:

- (a) your interest or
- (b) an interest of your spouse or civil partner, a person with whom you are living as husband and wife, or a person with whom you are living as if you were civil partners and provided you are aware that the other person has the interest.

“Interests” means Disclosable Pecuniary Interests and Other Significant Interests.

“Meeting” means any meeting of:

- (a) the Authority;
- (b) the executive of the Authority;
- (c) any of the Authority's or its executive's committees, sub-committees, joint committees and/or joint sub-committees.

“Member” means a person who is an elected member of the Authority and includes a co-opted Member.

“Other Significant Interest” means an interest (other than a Disclosable Pecuniary Interest or an interest in an Authority Function) which:

- (a) affects the financial position of yourself and/or an Associated Person; or
- (b) relates to the determination of your application for any approval, consent, licence, permission or registration made by, or on your behalf of, you and/or an Associated Person;

and which, in either case, a member of the public with knowledge of the relevant facts would reasonably regard as being so significant that it is likely to prejudice your judgment of the public interest.

“Register of Members’ Interests” means the Authority's register of Disclosable Pecuniary Interests established and maintained by the Monitoring Officer under section 29 of the Localism Act 2011.

“Sensitive Interest” means information, the details of which, if disclosed, could lead to you or a person connected with you being subject to violence or intimidation.

2.2 Scope

You must comply with this Code whenever you act in your capacity as a Member or Co-opted Member of the Authority.

3.0 General obligations

3.1 You must, when using or authorising the use by others of the resources of the Authority:

- (a) act in accordance with the Authority's reasonable requirements; and

- (b) ensure that such resources are not used improperly for political purposes (including party political purposes).

3.2 You must not:

- (a) bully any person;
- (b) intimidate or attempt to intimidate any person who is or is likely to be a complainant, a witness, or involved in the administration of any investigation or proceedings, in relation to an allegation that a Member (including yourself) has failed to comply with this Code;
- (c) do anything that compromises, or is likely to compromise, the impartiality or integrity of those who work for, or on behalf of, the Authority;
- (d) disclose information given to you in confidence by anyone, or information acquired by you which you believe, or ought reasonably to be aware, is of a confidential nature, except where:
 - (i) you have the written consent of a person authorised to give it; or
 - (ii) you are required by law to do so; or
 - (iii) the disclosure is made to a third party for the purpose of obtaining professional advice provided that the third party agrees not to disclose the information to any other person; or
 - (iv) the disclosure is:
 - (aa) reasonable and in the public interest; and
 - (bb) made in good faith and in compliance with the reasonable requirements of the Authority;
- (e) prevent another person from gaining access to information to which that person is entitled by law;
- (f) conduct yourself in a manner which could reasonably be regarded as bringing your office or the Authority into disrepute;
- (g) use or attempt to use your position as a Member improperly to confer on or secure for yourself or any other person, an advantage or disadvantage.

4.0 Registering Disclosable Pecuniary Interests

- 4.1 You must, before the end of 28 days beginning with the day you become a Member or Co-opted Member of the Authority, or before the end of 28 days beginning with the day on which this Code takes effect (whichever is the later), notify the Monitoring Officer of any Disclosable Pecuniary Interest.

- 4.2 In addition, you must, before the end of 28 days beginning with the day you become aware of any new Disclosable Pecuniary Interest or change to any interest already registered, register details of that new interest or change, by providing written notification to the Monitoring Officer.
- 4.3 Where you have a Disclosable Pecuniary Interest in any matter to be dealt with, or being dealt with, by you acting alone in the course of discharging a function of the Authority (including making a decision in relation to the matter), then if the interest is not registered in the Register of Members' Interests and is not the subject of a pending notification, you must notify the Monitoring Officer before the end of 28 days beginning with the day you become aware of the existence of the interest.

5.0 Declaring Interests

- 5.1 Whether or not a Disclosable Pecuniary Interest has been entered onto the Register of Members' Interests or is the subject of a pending notification, you must comply with the disclosure procedures set out below.
- 5.2 Where you are present at a Meeting and have a Disclosable Pecuniary Interest or Other Significant Interest (and you are aware that you have such an interest) in any matter to be considered, or being considered, at the Meeting, you must:
- (a) disclose the Interest; and
 - (b) explain the nature of that Interest at the commencement of that consideration or when the Interest becomes apparent (subject to paragraph 6, below); and unless you have been granted a dispensation:
 - (c) not participate in any discussion of, or vote taken on, the matter at the Meeting; and
 - (d) withdraw from the Meeting room in accordance with the Authority's Procedure Rules whenever it becomes apparent that the business is being considered; and
 - (e) not seek improperly to influence a decision about that business.
- 5.3 Where you have a Disclosable Pecuniary Interest or Other Significant Interest in any business of the Authority where you are acting alone in the course of discharging a function of the Authority (including making an executive decision), you must:

- (a) notify the Monitoring Officer of the interest and its nature as soon as it becomes apparent; and
- (b) not take any steps, or any further steps, in relation to the matter except for the purpose of enabling the matter to be dealt with otherwise than by you; and
- (c) not seek improperly to influence a decision about the matter.

5.4 Where you have an Other Significant Interest in any business of the Authority, you may attend a Meeting but only for the purpose of making representations, answering questions or giving evidence relating to the business, provided that the public are also allowed to attend the Meeting for the same purpose. Having made your representations, given evidence or answered questions you must:

- (a) not participate in any discussion of, or vote taken on, the matter at the Meeting; and
- (b) withdraw from the Meeting room in accordance with the Authority's Procedure Rules.

6.0 Sensitive Interests

6.1 Where you consider that the information relating to any of your Disclosable Pecuniary Interests is a Sensitive Interest, and the Monitoring Officer agrees, the Monitoring Officer will not include details of the Sensitive Interest on any copies of the Register of Members' Interests which are made available for inspection or any published version of the Register, but may include a statement that you have an interest, the details of which are withheld under this paragraph.

6.2 You must, before the end of 28 days beginning with the day you become aware of any change of circumstances which means that information excluded under paragraph 6(1) is no longer a Sensitive Interest, notify the Monitoring Officer asking that the information be included in the Register of Members' Interests.

6.3 The rules relating to disclosure of Interests in paragraphs 5(2) and (3) will apply, save that you will not be required to disclose the nature of the Sensitive Interest, but merely the fact that you hold an interest in the matter under discussion.

7.0 Gifts and Hospitality

7.1 You must, before the end of 28 days beginning with the day of receipt/acceptance, notify the Monitoring Officer of any gift, benefit or hospitality with an estimated value of £100 or more, or a series of gifts, benefits and

hospitality from the same or an associated source, with an estimated cumulative value of £100 or more, which are received and accepted by you (in any one calendar year) in the conduct of the business of the Authority, the business of the office to which you have been elected or appointed or when you are acting as representative of the Authority. You must also register the source of the gift, benefit or hospitality.

- 7.2 Where any gift, benefit or hospitality you have received or accepted relates to any matter to be considered, or being considered at a Meeting, you must disclose at the commencement of the Meeting or when the interest becomes apparent, the existence and nature of the gift, benefit or hospitality, the person or body who gave it to you and how the business under consideration relates to that person or body. You may participate in the discussion of the matter and in any vote taken on the matter, unless you have an Other Significant Interest, in which case the procedure in paragraph 5 above will apply.
- 7.3 You must continue to disclose the existence and nature of the gift, benefit or hospitality at a relevant Meeting, for 3 years from the date you first registered the gift, benefit or hospitality.
- 7.4 The duty to notify the Monitoring Officer does not apply where the gift, benefit or hospitality comes within any description approved by the Authority for this purpose.

8.0 Dispensations

- 8.1 The Standards Committee, or the Monitoring Officer (where authorised) may, on a written request made to the Monitoring Officer (as appointed Proper Officer for the receipt of applications for dispensation) by a Member with an Interest, grant a dispensation relieving the Member from either or both of the restrictions on participating in discussions and in voting (referred to in paragraph 5 above).
- 8.2 A dispensation may be granted only if, after having had regard to all relevant circumstances, the Standards Committee or the Monitoring Officer (where authorised) considers that:
- (a) without the dispensation the number of persons prohibited from participating in any particular business would be so great a proportion of the body transacting the business as to impede the transaction of the business; or

- (b) without the dispensation, the representation of different political groups on the body transacting any particular business would be so upset as to alter the likely outcome of any vote relating to the business; or
- (c) granting the dispensation is in the interests of persons living in the Authority's area; or
- (d) without the dispensation each member of the Authority's executive would be prohibited from participating in any particular business to be transacted by the Authority's executive; or
- (e) it is otherwise appropriate to grant a dispensation.

8.3 A dispensation must specify the period for which it has effect, and the period specified may not exceed four years.

8.4 Paragraph 5 above does not apply in relation to anything done for the purpose of deciding whether to grant a dispensation under this paragraph 8.

THE SEVEN PRINCIPLES OF PUBLIC LIFE

In accordance with the Localism Act 2011, and in order to help maintain public confidence in this Authority, you are committed to behaving in a manner that is consistent with the following principles. However, it should be noted that these Principles do not create statutory obligations for Members and do not form part of the Code. It follows from this that the Authority cannot accept allegations that they have been breached.

SELFLESSNESS: You should act solely in terms of the public interest and never improperly confer an advantage or disadvantage on any person or act to gain financial or other material benefits for yourself, your family, a friend or close associate.

INTEGRITY: You should exercise independent judgment and not compromise your position by placing yourself under obligations to outside individuals or organisations who might seek to influence you in the performance of your official duties. You should behave in accordance with all legal obligations, alongside any requirements contained within this Authority's policies, protocols and procedures, including on the use of the Authority's resources. You should value your colleagues and staff and engage with them in an appropriate manner and one that underpins the mutual respect that is essential to good local government. You should treat people with respect, including the organisations and public you engage with and those you work alongside.

OBJECTIVITY: In carrying out public business, including making public appointments, awarding contracts, or recommending individuals for rewards and benefits, you should make choices on merit. You should deal with representations or enquiries from residents, members of the communities and visitors fairly, appropriately and impartially. You should champion the needs of the whole community and especially your constituents, including those who did not vote for you.

ACCOUNTABILITY: You are accountable to the public for your decisions and actions and should fully co-operate with whatever scrutiny is appropriate to your office.

OPENNESS: You should be as open and as transparent as possible about all the decisions and actions that you take to enable residents to understand the reasoning behind those decisions and to be informed when holding you and other Members to account. You should give reasons for your decisions and restrict information only when the wider public interest or the law clearly demands it. You should listen to the interests

of all parties, including relevant advice from statutory and other professional officers, taking all relevant information into consideration, remaining objective and making decisions on merit.

HONESTY: You have a duty to declare interests relating to your public duties and to take steps to resolve any conflicts arising in a way that protects the public interest. You should not allow other pressures, including the financial interests of yourself or others connected to you, to deter you from pursuing constituents' casework, the interests of the Authority's area or the good governance of the Authority in a proper manner.

LEADERSHIP: Through leadership and example you should promote and support high standards of conduct when serving in your public post. You should provide leadership through behaving in accordance with these principles when championing the interests of the community with other organisations as well as within this Authority.

DISCLOSABLE PECUNIARY INTERESTS

The Relevant Authorities (Disclosable Pecuniary Interests) Regulations 2012 prescribe that the interests described in Table 1 below are Disclosable Pecuniary Interests:-

Interest	Description
Employment, office, trade, profession or vacation	Any employment, office, trade, profession or vocation carried on for profit or gain.
Sponsorship	<p>Any payment or provision of any other financial benefit (other than from the relevant authority) made or provided within the relevant period in respect of any expenses incurred by M in carrying out duties as a member, or towards the election expenses of M.</p> <p>This includes any payment or financial benefit from a trade union within the meaning of the Trade Union and Labour Relations (Consolidation) Act 1992.</p>
Contracts	<p>Any contract which is made between the relevant person (or a body in which the relevant person has a beneficial interest) and the relevant authority:</p> <p>(a) under which goods or services are to be provided or works are to be executed; and</p> <p>(b) which has not been fully discharged.</p>
Land	Any beneficial interest in land which is within the area of the relevant authority.
Licences	Any licence (alone or jointly with others) to occupy land in the area of the relevant authority for a month or longer.
Corporate tenancies	<p>Any tenancy where (to M's knowledge):</p> <p>(a) the landlord is the relevant authority; and</p> <p>(b) the tenant is a body in which the relevant person has a beneficial interest.</p>

Securities	<p>Any beneficial interest in securities of a body where:</p> <p>(a) that body (to M's knowledge) has a place of business or land in the area of the relevant authority; and</p> <p>(b) either</p> <p>(i) the total nominal value of the securities exceeds £25,000 or one hundredth of the total issued share capital of that body; or</p> <p>(ii) if the share capital of that body is of more than one class, the total nominal value of the shares of any one class in which the relevant person has a beneficial interest exceeds one hundredth of the total issued share capital of that class.</p>

These descriptions are subject to the following definitions:

“the Act” means the Localism Act 2011

“body in which the relevant person has a beneficial interest” means a firm in which the relevant person is a partner or a body corporate of which the relevant person is a director, or in the securities of which the relevant person has a beneficial interest

“director” includes a member of the committee of management of an industrial and provident society

“land” excludes an easement, servitude, interest or right in or over land which does not carry with it a right for the relevant person (alone or jointly with another) to occupy the land or to receive income

“M” means a member of the relevant authority

“member” includes a co-opted member

“relevant authority” means the authority of which M is a member

“relevant period” means the period of 12 months ending with the day on which M gives a notification for the purposes of section 30(1), or section 31(7), as the case may be, of the Act

“relevant person” means M or any other person referred to in section 30(3)(b) of the Act (the Member’s spouse, civil partner, or somebody with whom they are living as a husband or wife, or as if they were civil partners).

“securities” means shares, debentures, debenture stock, loan stock, bonds, units of a collective investment scheme within the meaning of the Financial Services and Markets Act 2000 and other securities of any description, other than money deposited with a building society

The Standards Committee

General

A Committee of the Council established to make recommendations in relations to ethics and the standards of conduct expected of elected and co-opted members of Thanet District Council and the Town and Parish Councils established in the administrative area of Thanet District Council.

Membership, Chairmanship and Quorum

Number of Members	Fourteen Members comprising seven District Councillors, four Independent Members (non councillors) and three Town/Parish Representatives
Substitute Members Permitted	Yes
Political Balance Rules apply	Yes - in respect of the seven District Councillors unless Council agrees to waive political balance with no member voting against
Appointments/Removals from Office	By resolution of full Council.
Restrictions on Membership	Cabinet Leader ineligible
Restrictions on Chairmanship/Vice-Chairmanship	None.
Quorum	Three
Number of ordinary meetings per Council Year	Meetings will be called as required
Standing Sub Committees	Standards (Assessment) Sub Committee and Standards (Hearings) Sub Committee

Terms of Reference

To discharge the functions (other than those which are reserved to Council) as set out in Part 1, Chapter 7 of the Localism Act 2011 including:

1. To promote and maintain high standards of conduct by Members and co-opted Members of the District Council and to make recommendations to Council on improving standards.
2. To advise and assist Parish/Town Councils and Parish/Town Councillors to maintain high standards of conduct and to make recommendations to Parish/Town Councils on improving standards.
3. To advise the District Council on the adoption of or revisions to its Members Code of Conduct.
4. To advise, train or arrange to train District Members, Co-opted Members and Parish/Town Councillors on matters relating to the Members Code of Conduct.
5. To assist District Councillors, Co-opted Members and Parish/Town Councillors to observe their respective Codes of Conduct.

6. To monitor and assess the operation and effectiveness of the Members Code of Conduct and to review and manage the Arrangements for dealing with Code of Conduct Complaints.
7. To maintain oversight of the District Council's arrangements for dealing with Code of Conduct complaints.
8. To monitor and review the procedures for the Register of Members' Interests and declaring gifts and hospitality.
9. Recommending to Council for approval the terms of any other codes or protocols relating to matters of conduct, ethics or propriety, including without limitation the Protocol on Member/Officer Relations and the Protocol on the Guidance of Planning Committee Members and Officers and any alterations or amendments thereto.
10. Receiving the recommendations of the Constitution Review Working Party Working and recommending to Council the terms of the Constitution for the Governance of Thanet District Council
11. To receive quarterly reports (or less frequently if there are no complaints to report) from the Monitoring Officer on the number and nature of complaints received and action taken as a result.
12. To receive an annual report on the District] Council's ethical governance arrangements.
13. To grant dispensations pursuant to S33(2) of the Localism Act 2011 where:
 - 13.1 without the dispensation, the representation of different political groups on the body transacting the business would be so upset as to alter the outcome of any vote on the matter.
 - 13.2 that the authority considers that the dispensation is in the interests of persons living in its area; or
 - 13.3 where the Committee considers that it is otherwise appropriate to grant a dispensation.
14. Responsibility for establishing the following Advisory Sub Committees to carry out the following functions:-
 - 14.1 A Standards Assessment Sub Committee with responsibility for making recommendations for making recommendations to the Monitoring Officer on whether in relation to a complaint alleging a failure to comply with the requirements of the Members Code of Conduct no further action should be taken in respect of the complaint or whether the informal disputes resolution procedure should be instigated or whether the complaint should be the subject of an investigation.
 - 14.2 A Standards Hearings Sub Committee with responsibility for conducting a hearing into a complaint that has been referred to it by the Monitoring Officer and determining whether there has been a

failure by a member to comply with the Members Code of Conduct and if so, to decide what action to take (if any) in relation thereto.

- 15 Responsibility for the overview of the Council's complaints procedure including ombudsman investigations.

Delegations

1. The matters referred to in Paragraphs 3 to 8 and 11-15 (inclusive) above.

STANDARDS (ASSESSMENT) SUB COMMITTEE

General

A Sub Committee of the Standards Committee established to make recommendations to the Monitoring Officer on whether in relation to a complaint alleging a failure to comply with the requirements of the Members Code of Conduct no further action should be taken in respect of the complaint or whether the informal disputes resolution procedure should be instigated or whether the complaint should be the subject of an investigation

Membership, Chairmanship and Quorum

Number of Members	Three members of the Standards Committee including in all cases an Independent Member and in the case of a complaint against a town or parish councillor, at least one Town/Parish Representative
Substitute Members Permitted	No
Political Balance Rules apply	No
Appointments/Removals from Office	The Monitoring Officer has delegated authority to appoint members on a per meeting basis
Restrictions on Membership	Reserved to members of the Standards Committee.
Restrictions on Chairmanship	No.
Quorum	Three
Number of ordinary meetings per Council Year	Meetings will be called as required

Terms of Reference

1. When required to do so to conduct an initial assessment of a complaint alleging that an elected or co-opted Member of Thanet District Council or a Town or Parish Council established in Thanet failed to comply with the Code of Conduct for elected and co-opted Members adopted by their Council and make a recommendations to the Monitoring Officer that:
 - (i) No further action be taken in respect of the complaint; or

- (ii) The Informal Disputes Resolution Procedure be instigated; or
- (iii) The complaint should be the subject of an investigation.

2. To produce a written summary of its consideration of a complaint to include the main points considered, its conclusion on the complaint and the reasons for that conclusion and to make arrangements to ensure that such summary is available for inspection by members of the public at the Council Offices for a period of one year beginning with the date of the meeting that considered the complaint.

Delegations

All matters in the Terms of Reference are fully delegated.

STANDARDS (HEARINGS) SUB COMMITTEE

General

A Sub Committee of the Standards Committee established to conduct hearings into allegations referred to it by the Monitoring Officer and for making a determination on whether there has been a failure by an elected or co-opted member of Thanet District Council or a Town or Parish Council established in Thanet to comply with the Members Code of Conduct adopted by their Council and in the event of such determination to further determine what action (if any) to take in relation thereto

Membership, Chairmanship and Quorum

Number of Members	Three
Substitute Members Permitted	No
Political Balance Rules apply	No
Appointments/Removals from Office	The Monitoring Officer has delegated authority to appoint members on a per meeting basis.
Restrictions on Membership	Reserved to elected members of the Standards Committee
Restrictions on Chairmanship/Vice-Chairmanship	None A chairman will be elected at each meeting on a per meeting basis
Quorum	Three .
Number of ordinary meetings per Council Year	Meetings will be called as required

Terms of Reference

1. To hold a hearing and make a determination in relation to a complaint referred to it by the Monitoring Officer alleging a failure by an elected or co-opted member of Thanet District Council or a Parish or Town Council established in Thanet the Co to comply with the requirements of the Members Code of Conduct adopted by their Council.

2. In any case where the Sub Committee determines that a member has failed to comply with the Members Code of Conduct adopted by their Council, to determine what action (if any) to take in respect of such failure
3. To give notice in writing of any of its determinations including the reasons for such recommendations.

Delegations

All matters in the Terms of Reference are fully delegated.

Notes

1. An Independent Person shall be entitled to attend any hearing and make representations to the Sub Committee before it makes any recommendations as to whether there has been a failure to comply with the Members Code of Conduct or in the event of such failure, what action to take in relation thereto.

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**ARRANGEMENTS FOR DEALING WITH CODE OF CONDUCT
COMPLAINTS UNDER THE LOCALISM ACT 2011**

1. Context

- 1.1 These Arrangements are made under section 28 of the Localism Act 2011. They set out the process that the [District] Council has adopted for dealing with complaints that an elected or co-opted member of Thanet District Council or a Town or Parish Council established in Thanet has failed to comply with the requirements of the Members Code of Conduct adopted by their Council.

2. Interpretation

- 2.1 'the Clerk' means in relation to a Parish Council the officer of the Council duly appointed to conduct the executive functions of the Council in accordance with Section 112 of the Local Government Act 1972
- 2.2 'Complainant' means a person who has submitted a complaint in accordance with these Arrangements alleging that a Subject Member has breached the Members Code of Conduct and the term 'complaint' shall be construed accordingly.
- 2.3 'Disclosable Pecuniary Interest' means those disclosable pecuniary interests that meet the definition prescribed by regulations (as amended from time to time) as set out in Annex 2 to the Members Code of Conduct.
- 2.4 'District Council' means Thanet District Council.
- 2.5 'Group Leader' means such member of Thanet District Council who has been identified as Leader of a political group in accordance with a notification given to the proper officer of the Council in accordance with Regulation 8(3)(c) or 8(5)(b) of the Local Government (Committees and Political Groups) Regulations 1990 (as amended).
- 2.6 'Independent Person' means a person or persons appointed by the District Council under section 28(7) of the Localism Act 2011:
- (a) whose views must be sought and taken into account by the District Council before a decision is made on any complaint alleging a breach of the Code of Conduct by a Subject Member; and
 - (b) who may be consulted by the Subject Member about the complaint.
- 2.7 'Investigating Officer' means the person appointed by the Monitoring Officer to undertake a formal investigation of a complaint alleging a breach of the Code of Conduct by a Subject Member. The Investigating Officer may be another senior officer of the [District] Council, an officer of another authority or an external investigator.
- 2.8 'Members Code of Conduct' means the Code of Conduct, which the District and Parish Councils have adopted under section 27(2) of the Localism Act 2011 at Annex 1 to these Arrangements

- 2.9 'Monitoring Officer' is a senior officer of the District Council who has statutory responsibility for maintaining the Register of Members' Interests and who is responsible for administering the arrangements for dealing with any complaint alleging a breach of the Members Code of Conduct by a Subject Member. It includes any other officer of the District Council nominated by the Monitoring Officer to act on their behalf in the administration of these arrangements.
- 2.10 'Parish Council' means the relevant Town or Parish Council established within the District of Thanet
- 2.11 'Parties' means the Complainant, Subject Member and the Investigating Officer, as appropriate.
- 2.12 'Standards (Assessment) Sub Committee' means the Sub Committee established by the Standards Committee of the District Council with responsibility for making recommendations to the Monitoring Officer on whether in relation to a complaint alleging a failure by a Subject Member to comply with the requirements of the Members Code of Conduct no further action should be taken in respect of the complaint or whether the informal disputes resolution procedure should be instigated or whether the complaint should be the subject of an investigation.
- 2.13 'Standards (Hearings) Sub Committee' means the Sub Committee established by the Standards Committee of the District Council to conduct a hearing of a complaint against a Subject Member that has been referred to it by the Monitoring Officer under these arrangements and to determine whether there has been a failure by a Subject Member to comply with the Members Code of Conduct and if so, what action should be taken in relation thereto.
- 2.14 'Subject Member' means an elected member or co-opted member of the District Council or Parish Council] against whom a complaint has been made alleging a failure to comply with the requirements of the Members Code of Conduct.

3. Independent Person

- 3.1 The Council shall appoint the Independent Person (and any substitute) in accordance with the requirements of section 27 of the Localism Act 2011 upon such terms as to remuneration and expenses as may be determined by the Council from time to time. The Independent Person (and any substitute) shall be treated as if he were a Member of the Authority for the purposes of the Council's arrangements for indemnifying and insuring Members.

4 Making a complaint

- 4.1 A complaint alleging a breach of the Code of Conduct by a Subject Member must be made in writing and addressed to the Monitoring Officer using the Complaint Form at Annex 1 to these Arrangements. Complainants who find difficulty in making their complaint in writing (e.g. because of a disability), will be offered assistance.
- 4.2 The Subject Member will normally be informed of the identity of the Complainant and details of the complaint made against them, but the Complainant's identity and/or details of their complaint may be withheld at the Complainant's request if it appears to the Monitoring Officer that there are sound reasons for granting such a request (refer to paragraph 5 of Annex 2 to these Arrangements).

- 4.3 The Monitoring Officer will normally acknowledge receipt of a complaint within 5 working days of receiving it. At the same time (and subject to para. 4.2 above), the Monitoring Officer will send a copy of the complaint to the Subject Member in accordance with paragraph 2 of Annex 2 to these Arrangements.

5. Criminal conduct

- 5.1 In accordance with section 34 of the Localism Act 2011, it is a criminal offence if, without reasonable excuse, you:

- (a) fail to notify the Monitoring Officer of a Disclosable Pecuniary Interest within 28 days beginning with the day you become, or are re-elected or re-appointed, a Member or Co-opted Member of the Authority;
- (b) fail to notify the Monitoring Officer of a Disclosable Pecuniary Interest within 28 days beginning with the day you become aware of it, where you are acting alone in the course of discharging a function of the Authority (including making a decision in relation to the matter) and the interest is not already registered or is not the subject of a pending notification to the Monitoring Officer;
- (c) fail to disclose a Disclosable Pecuniary Interest at a meeting, where such interest has not already been registered or notified to the Monitoring Officer;
- (d) fail to notify the Monitoring Officer of a Disclosable Pecuniary Interest within 28 days beginning with the day you disclose it at a meeting, where such interest has not already been registered or notified to the Monitoring Officer;
- (e) take part in discussions or votes at meetings that relate to the Disclosable Pecuniary Interest, unless a dispensation has been granted;
- (f) knowingly or recklessly provide false or misleading information in any of the above disclosures or notifications.

- 5.2 Where a complaint against a Subject Member relates to conduct of a criminal nature referred to above, the Monitoring Officer will deal with the complaint in accordance with paragraph 4(4) of Annex 2 to these Arrangements.

6. Anonymous complaints

- 6.1 Complainants must provide their full name and address. An anonymous complaint will only be accepted by the Monitoring Officer in consultation with the Independent Person, providing it is accompanied by supporting evidence that indicates to the Monitoring Officer that it is in the public interest to accept the complaint.

7. Role of Independent Person

- 7.1 The Independent Person must be consulted and have their views taken into account before the Authority makes a finding as to whether a Member has failed to comply with the Code or decides on action to be taken in respect of that Member. At any other stage of the complaints process under these Arrangements, the Independent Person may be consulted by the Monitoring Officer and/or the Subject Member.

8. Preliminary Tests - Jurisdiction

- 8.1 Once receipt of a complaint has been acknowledged the Monitoring Officer will apply the legal jurisdiction tests in accordance with paragraph 1.2 of Annex 2 to these Arrangements. The Monitoring Officer will reject a complaint that in his opinion fails any of these tests and notify the Complainant in writing accordingly. There will be no appeal against this decision
- 8.2 Any complaint not rejected by the Monitoring Officer on the application of the jurisdiction test will be referred to the Standards Assessment Sub Committee for consideration.

9. Standards (Assessment) Sub Committee - Local Assessment Criteria

- 9.1 In all cases referred to it by the Monitoring Officer the Standards (Assessment) Sub Committee will consider the complaint by applying the local assessment criteria tests in accordance with paragraph 1.4 of Annex 2 to these Arrangements. The Sub-Committee will then make a recommendation to the Monitoring Officer for action as follows:-
- (a) That No Further Action be taken in respect of the complaint; or
 - (b) That the Informal Disputes Resolution Procedure be instigated in respect of the complaint; or
 - (c) That an Investigating Officer be appointed to investigate the complaint
- 9.2 Within five working days of the date of meeting the Standards Assessment Sub Committee will records its recommendations in writing along with summary reasons for such recommendations and submit them to the Monitoring Officer
- 9.3 Within three working days of the date of receipt of the recommendations of the Standards (Assessment) Sub Committee the Monitoring Officer will, having regard to the local assessment criteria tests and the recommendations of the Standards (Assessment) Sub Committee, determine whether:
- (a) No Further Action be taken in respect of the complaint; or
 - (b) The Informal Disputes Resolution Procedure be instigated; or
 - (c) An Investigating Officer be appointed to investigate the complaint.
- 9.4 The Monitoring Officer will prepare a written Decision Notice giving the reasons for his decision and a copy will be sent to:
- (a) The Complainant;
 - (b) The Subject Member;
 - (c) If the Subject Member is a District Councillor and a member of a recognised Political Group, the Group Leader of that Political Group; and
 - (d) If the Subject Member is a Town or Parish Councillor, the Clerk of the Town or Parish Council in question.

9.5 There will be no right of appeal against the decision of the Monitoring Officer.

10 Informal resolution

10.1 If the Monitoring Officer decides that a complaint is capable of informal resolution, he will instigate the Informal Disputes Resolution Procedure in accordance with paragraph 6 of Annex 2 to these Arrangements.

11. Investigation

11.1 If the Monitoring Officer decides that a complaint merits formal investigation, he will, within 10 working days of his decision appoint an Investigating Officer to undertake the investigation and inform the Complainant and the Subject Member of the appointment.

11.2 The Investigating Officer will investigate the complaint in accordance with Annex 3 to these Arrangements.

12 Investigating Officer's Opinion - 'No Breach'

12.1 If the Investigating Officer is of the opinion that the Subject Member has **not** failed to comply with the requirements of the Members Code of Conduct the Monitoring Officer will consult with the Independent Person and unless the Independent Person considers that the complaint should be referred to the Standards (Hearings) Sub Committee to conduct a hearing the Monitoring Officer will resolve to take No Further Action in respect of the complaint and notify all those persons notified in accordance with Paragraph 9.4 of these Arrangements of the decision to appoint an Investigating Officer.

13. Investigating Officer's Opinion - 'Breach'

13.1 If the Investigating Officer is of the opinion that the Subject Member has failed to comply with the requirements of the Members Code of Conduct the Monitoring Officer will convene a meeting of the Standards (Hearings) Sub Committee to determine the outcome of the complaint in accordance with Annex 4 to these Arrangements.

14 Sanctions

14.1 Where a Subject Member has been found by the Standards (Hearings) Sub Committee to have breached the Code of Conduct, the Standards (Hearings) Sub Committee may apply any one or more sanctions in accordance with paragraph 4 of Annex 4 to these Arrangements.

15 Appeal

15.1 There is no right of appeal for the Complainant or the Subject Member against decisions of the Monitoring Officer or the Standards (Hearings) Sub Committee made under these arrangements.

16 Revision of these Arrangements

16.1 The District Council may by resolution agree to amend these Arrangements and has delegated to the Monitoring Officer and the Standards (Hearings) Sub Committee the right to depart from these Arrangements, where he or they

consider it expedient to do so in order to secure the effective and fair consideration of any complaint.

PROCEDURE ON RECEIPT OF A COMPLAINT

1. Preliminary tests

1.1 The complaint will be assessed by the Monitoring Officer in consultation with the Independent Person against the legal jurisdiction test in paragraph 1.2 below.

1.2 Legal jurisdiction criteria test:

- (a) Did the alleged conduct occur before the adoption of the Code of Conduct?
- (b) Was the person complained of an elected or co-opted member of the District or Parish Council at the time of the alleged conduct?
- (c) Was the person complained of acting in an official capacity at the time of the alleged conduct?
- (d) Did the alleged conduct occur when the person complained of was acting as a member of another authority?
- (e) If the facts could be established as a matter of evidence, could the alleged conduct be capable of a breach of the Code of Conduct?
- (f) The complaint is about dissatisfaction with the District or Parish Council's decisions, policies and priorities, etc.

1.3 If the complaint fails one or more of the jurisdiction tests, no further action will be taken by the Monitoring Officer and the complaint will be rejected. The Complainant will be notified accordingly within 10 working days of receipt of the complaint by the Monitoring Officer. There is no right of appeal against the Monitoring Officer's decision.

1.4 Local Assessment Criteria:

If the complaint satisfies the jurisdiction test, the Monitoring Officer will refer the complaint to the Standards (Assessment) Sub Committee who will make one the recommendations referred to in paragraph 9.1 of these Arrangements to the Monitoring Officer having due regard to the following local assessment criteria. any of which, if satisfied, will create a presumption that it may not be in the public interest to investigate the complaint.

- (a) The complaint is a 'repeat complaint', unless supported by new or further evidence substantiating or indicating that the complaint is exceptionally serious or significant;
- (b) The complaint is anonymous, unless supported by independent documentary evidence substantiating or indicating that the complaint is exceptionally serious or significant;
- (c) No or insufficient information/evidence to substantiate the complaint has been submitted by the Complainant;
- (d) The complaint is malicious, trivial, politically motivated or 'tit-for-tat';
- (e) The Complainant is unreasonably persistent, malicious and/or vexatious;
- (f) The alleged misconduct happened more than three months ago (unless it could not reasonably have been uncovered or discovered earlier and the Complainant has complained promptly after uncovering or discovering the misconduct);
- (g) The complaint is relatively minor and dealing with the complaint would have a disproportionate effect on both public money and officers' and Members' time;
- (h) The circumstances have changed so much that there would be little benefit arising from an investigation or other action;
- (i) The complaint has been the subject of an investigation or other action and there is nothing more to be gained by further action being taken;
- (j) The complaint is such that it is unlikely that an investigation will be able to come to a firm conclusion on the matter, e.g. where there is no firm evidence on the matter;
- (k) The complaint is about a deceased person
- (l) The complaint is about a person who is no longer a District or Parish Councillor or a Co-opted Member.

1.5 The Monitoring Officer will then make the final decision taking into account the recommendations of the Standards (Assessment) Sub-Committee. The Monitoring officer will prepare a decision notice giving reasons and the Complainant and Subject Member will be notified accordingly within five working days of receipt of the recommendations of the Standards (Assessment) Sub Committee.

2. Notification of Complaint to Subject Member

2.1 Subject to any representations from the Complainant on confidentiality (see paragraph 5 below), the Monitoring Officer will notify the Subject Member and, where applicable, the Parish Clerk of the complaint.

2.2 The Monitoring Officer may invite the Subject Member and, where applicable, the Parish Clerk to submit initial views on the complaint within 10 working days, which will be taken into account by the Monitoring Officer when they decide how to deal with the complaint (see paragraph 4 below). Views received from the Subject Member and/or Parish Clerk after the 10 working day time limit may be taken into account at the discretion of the Monitoring Officer, providing the views are received before the complaint has been referred to the Standards (Assessment) Sub Committee for consideration.

3. Asking for additional information

3.1 The Monitoring Officer may ask the Complainant, the Subject Member and where applicable, the Parish Clerk for additional information before deciding how to deal with the complaint.

4. What process to apply - informal resolution or investigation and/or no action?

4.1 The Monitoring Officer will at all times have regards to the recommendations of the Standards (Assessment) Sub Committee but subject thereto will make a decision on the merits of the complaint taking into account the local assessment criteria.

4.2 Complaints that engage the local assessment criteria are more likely to be rejected - i.e. the decision will be to take no further action

4.3 Where the Subject Members has made a reasonable offer of informal resolution it is more likely that the decision will be to instigate the informal disputes resolution procedure although the seriousness of the complaint and the acceptability of such offer to the Complainant will also be taken into account in making the decision. More information on when it may be appropriate to instigate the informal disputes resolution procedure is given at Paragraph 6 below.

4.4 A complaint is more likely to be referred to investigation when:

- (a) it is serious enough, if proven, to justify the range of sanctions available to the Standards Committee (see paragraph 4 of Annex 4 to these Arrangements;

- (b) the Subject Member's behaviour is part of a continuing pattern of less serious misconduct that is unreasonably disrupting the business of the District or Parish] Council (as the case may be) and there is no other avenue left to deal with it short of investigation. In considering this, the Monitoring Officer may take into account the time that has passed since the alleged conduct occurred.
- 4.5 Where the complaint is referred for investigation, the Monitoring Officer will appoint an Investigating Officer who will conduct the investigation in accordance with the procedure at Annex 3 to these Arrangements.
- 4.6 If the complaint identifies potential criminal conduct or potential breach of other regulations by the Subject Member or any other person, the Complainant will be advised by the Monitoring Officer to report the complaint to the police or other prosecuting or regulatory authority. In such cases, the complaints process under these Arrangements will be suspended, pending a decision/action by the police or other prosecuting or regulatory authority. Where the police or other prosecuting or regulatory authority decide to take no action on the complaint, the Monitoring Officer will lift the suspension and refer the complaint to the Standards (Assessment) Sub Committee.
- 4.7 The Monitoring Officer in consultation with the Chairman of the relevant Standards (Assessment) Sub Committee will take no further action in respect of a complaint when one or more of the following apply:
- (a) on-going criminal proceedings or a police investigation into the Subject Member's conduct or where the complaint is suspended in accordance with paragraph 4.6 above;
 - (b) investigation cannot be proceeded with, without investigating similar alleged conduct or needing to come to conclusions of fact about events which are also the subject of some other investigation or court proceedings;
 - (c) the investigation might prejudice another investigation or court proceedings;
 - (d) on-going investigation by another prosecuting or regulatory authority;
 - (e) genuine long term (3 months or more) unavailability of a key party;
 - (f) serious illness of a key party.
- 4.8 Within twenty working days of receipt of the complaint, the Monitoring Officer will secure consideration of the complaint by the Standards (Assessment) Sub Committee and the Monitoring Officer will make a decision on the complaint and notify the Complainant, Subject Member and where applicable, the Parish Clerk of such decision within seven working days of the date of the meeting of the

Standards (Assessment) Sub Committee. The decision will be in the form of a decision notice which summarises the complaint, records the decision made and gives reasons for such decision. The decision notice will be published on the District Council's website for a minimum of 56 days

- 4.9 Although there is no right of appeal against the Monitoring Officer's decision in the event that the Complainant submits additional relevant information, the Monitoring Officer will consider and decide if the matter warrants further consideration under these Arrangements, in which case it shall be treated as a fresh complaint.

5. Confidentiality

- 5.1 If the Complainant has asked for their identity to be withheld, this request will be considered by the Monitoring Officer.

- 5.2 As a matter of fairness and natural justice, the Subject Member will usually be told who the Complainant is and will also receive details of the complaint. However, in exceptional circumstances, it may be appropriate to keep the Complainant's identity confidential or not disclose details of the complaint to the Subject Member during the early stages of an investigation. The Monitoring Officer may withhold the Complainant's identity and/or details of the complaint if they are satisfied that there are reasonable grounds for believing that the Complainant or any other person (e.g. a witness):

- (a) is either vulnerable or at risk of threat, harm or reprisal;
- (b) may suffer intimidation or be victimised or harassed;
- (c) works closely with the Subject Member and are afraid of the consequences, e.g. fear of losing their job;
- (d) suffers from a serious health condition and there are medical risks associated with their identity being disclosed (medical evidence will need to be provided to substantiate this);
- (e) may receive less favourable treatment because of the seniority of the person they are complaining about in terms of any existing District or Parish Council service provision or any tender/contract they may have with or are about to submit to the District or Parish Council.

OR where early disclosure of the complaint:

- (a) may lead to evidence being compromised or destroyed; or
- (b) may impede or prejudice the investigation; or
- (c) would not be in the public interest.

5.3 Relevant public interest factors favouring disclosure (not an exhaustive list) include:

- (a) to facilitate transparency and ethical governance accountability: recognising that decision-making may be improved by constructive contributions from others;
- (b) to raise public awareness: disclosing the complaint or part of it may inform the community about matters of general concern;
- (c) justice to an individual: the balance of the public interest may favour disclosure of the complaint to the Subject Member when it may not be in the public interest to disclose it to the world at large;
- (d) bringing out in the open serious concerns about the behaviour/conduct of an individual.

5.4 The Monitoring Officer, in consultation with the Independent Person, will balance whether the public interest in accepting the complaint outweighs the Complainant's wish to have their identity (or that of another person) withheld from the Subject Member. If the Monitoring Officer decides to refuse the Complainant's request for confidentiality, they will offer the Complainant the option to withdraw their complaint. The Complainant will be notified of the Monitoring Officer's decision, with reasons, within 15 working days of receipt of the complaint by the Monitoring Officer. There is no right of appeal against the Monitoring Officer's decision to refuse the Complainant's request for confidentiality.

6. Informal resolution

6.1 These Arrangements enable the Monitoring Officer to resolve complaints informally. In so doing, the Monitoring Officer will consult with the Complainant and the Subject Member to agree what they consider to be a fair resolution, which will help to ensure higher standards of conduct for the future.

6.2 Informal resolution may be the simplest and most cost effective way of resolving the complaint and may be appropriate where:

- (a) The Subject Member appears to have a poor understanding of the Code of Conduct and/or related District or Parish] Council procedures (as the case may be); or
- (b) There appears to be a breakdown in the relationship between the Complainant and the Subject Member; or

- (c) The conduct complained of appears to be a symptom of wider underlying conflicts which, if unresolved, are likely to lead to further misconduct or allegations of misconduct; or
- (d) The conduct complained of appears common to a number of members of the District] or Parish Council, demonstrating a lack of awareness, experience or recognition of the particular provisions of the Code of Conduct and/or other District/[Parish Council procedures, etc; or
- (e) The conduct complained of appears to the Monitoring Officer not to require a formal sanction; or
- (f) The complaint appears to reveal a lack of guidance, protocols and procedures within the District or Parish Council; or
- (g) The Complainant and the Subject Member are amenable to engaging in an informal resolution; or
- (h) The complaint consists of allegations and retaliatory allegations between councillors; or
- (i) The complaint consists of allegations about how formal meetings are conducted; or
- (j) The conduct complained of may be due to misleading, unclear or misunderstood advice from officers.

6.3 Informal resolution may consist of one or more of the following actions, which do not have to be limited to the Subject Member, but may extend to other councillors including the whole District/Parish Council where it may be useful to address systemic behaviour:

- (a) training;
- (b) conciliation/mediation;
- (c) mentoring;
- (d) apology;
- (e) instituting changes to the District or Parish Council's procedures;
- (f) conflict management;
- (g) development of the District or Parish Council's protocols;
- (h) other remedial action by the District or Parish] Council;
- (i) other steps (other than investigation) if it appears appropriate to the Monitoring Officer in consultation with the Independent Person.

- 6.4 If the Subject Member is agreeable to and complies with the informal resolution process, the Monitoring Officer will report the matter to the Standards Committee and, if applicable, the Parish Council] for information, but will take no further action.
- 6.5 Where the Subject Member will not participate in the informal resolution process or if, having agreed to one or more actions under the informal resolution process, the Subject Member refuses or fails to carry out any agreed action, the Monitoring Officer will report the matter to the Standards Committee.

PROCEDURE FOR INVESTIGATING THE COMPLAINT

1. Preliminaries

- 1.1 The Investigating Officer will be appointed by the Monitoring Officer and will be aware of their obligations under the Data Protection Act 1998, Equalities Act 2010, the Human Rights Act 1998 and other relevant legislation.
- 1.2 The Investigating Officer is responsible for gathering all the facts, documents and, where applicable, for interviewing witnesses with knowledge of the facts, and they should remain objective, impartial and unbiased at all times.
- 1.3 The Subject Member and the Complainant will be advised that the investigation is for fact finding purposes only.
- 1.4 Witnesses will be identified at the investigation stage and their evidence supported by signed and dated witness statements and/or notes of interview with the Investigating Officer. The Investigating Officer cannot compel the attendance of witnesses or their co-operation.
- 1.5 The Investigating Officer will not make recommendations on sanctions.
- 1.6 Within 10 working days of being appointed, the Investigating Officer will notify the Subject Member and the Complainant of their appointment and:
 - (a) provide details of the complaint to the Subject Member;
 - (b) detail the procedure to be followed in respect of the investigation and the relevant timescales for responses and concluding the investigation;
 - (c) detail the sections of the Code of Conduct that appear to be relevant to the complaint;
 - (d) request contact details of any potential witnesses;
 - (e) require that confidentiality is maintained and that details of the complaint not be disclosed to any third party, unless disclosure is to a representative, witness, immediate family members or otherwise as may be required by law or regulation. However, the fact that an investigation is being conducted does not need to remain confidential.
- 1.7 It may be necessary for the Investigating Officer to agree with the Subject Member which documents will be submitted in evidence. This will generally include documents that will be relied on, or in support of, the Subject Member's case and which are relevant to the complaint.

1.8 The Investigating Officer may terminate their investigation at any point, where they are satisfied that they have sufficient information to enable them to report to the Monitoring Officer.

2. The Draft Report

2.1 On the conclusion of their investigation the Investigating Officer will issue a draft report (clearly labelled 'DRAFT') to the Monitoring Officer for review.

2.2 Following review by the Monitoring Officer, the draft report will be sent in confidence to the Subject Member and the Complainant (not witnesses) for comment. The draft report will be clearly labelled 'CONFIDENTIAL' and will detail:

- (a) the relevant provisions of the law and the relevant paragraphs of the Code of Conduct;
- (b) a summary of the complaint;
- (c) the Subject Member's response to the complaint;
- (d) relevant information, explanations, etc, which the Investigation Officer has obtained in the course of the investigation;
- (e) a list of any documents relevant to the matter;
- (f) a list of those persons/organisations who have been interviewed;
- (g) a statement of the Investigating Officer's draft findings of fact and reasons;
- (h) the Investigating Officer's conclusion as to whether the Subject Member has or has not failed to comply with the Authority's Code of Conduct;
- (i) that the Investigating Officer will present a final report once they have considered any comments received on the draft.

2.3 Once the Investigating Officer has received any responses from the Subject Member and/or the Complainant, they will finalise the draft report and make their final conclusions and recommendations to the Monitoring Officer. The report will be clearly labelled 'FINAL'.

3. Consideration of Investigating Officer's final report

3.1 The Monitoring Officer will review the Investigating Officer's final report and any comments submitted by the Parties, in consultation with the Independent Person.

3.2 Where, on the basis of the Investigating Officer's report, the Monitoring Officer, having consulted with the Independent Person, concludes that there is no evidence

of a failure to comply with the Code of Conduct; they will inform the Parties in writing that no further action is considered necessary. There is no right of appeal against the Monitoring Officer's decision.

3.3 Where, on the basis of the Investigating Officer's report, the Monitoring Officer, having consulted with the Independent Person, concludes that there is evidence of a failure to comply with the Code of Conduct, he will refer the matter for consideration by the Standards (Hearings) Sub Committee in accordance with the relevant procedure detailed in Annex 4 to these Arrangements.

STANDARDS (HEARINGS) SUB COMMITTEE

HEARINGS PROCEDURE

1. **Rules of procedure**
- 1.1 The Standards (Hearings) Sub Committee consists of three voting elected Members and one non-voting Independent Member drawn from the [Standards] Committee. One of the voting elected Members shall be elected as Chairman. [Where the Subject Member is a Parish Councillor, one of the Town/Parish Representatives on the Standards will also be invited to be present in an advisory capacity and will not have any voting rights.
- 1.2 The quorum for a meeting of the Standards (Hearings) Sub Committee is three elected Members .
- 1.3 The Independent Person's views must be sought and taken into consideration before the Standards (Hearings) Sub Committee takes any decision on whether the Subject Member's conduct constitutes a failure to comply with the Code of Conduct and as to any sanction to be taken following a finding of failure to comply with the Code of Conduct. The Independent Person should normally be present throughout the hearing (but not during the deliberations of the Standards (Hearings) Sub Committee in private) but in the event that this is not possible, may instead submit their views on the complaint to the Standards (Hearings) Sub Committee in writing.
- 1.4 The legal requirements for publishing agendas, minutes and calling meetings, will apply to the Standards (Hearings) Sub Committee. The hearing will be held in public no earlier than 14 working days after the Monitoring Officer has copied the Investigating Officer's final report to the complainant and the Subject Member. Schedule 12A Local Government Act 1972 (as amended) will be applied to exclude the public and press from meetings of the Standards (Hearings) Sub Committee where it is likely that confidential or exempt information will be disclosed.
- 1.5 All matters/issues before the Standards (Hearings) Sub Committee will be decided by a simple majority of votes cast, with the Chairman having a second or casting vote.
- 1.6 Where the Subject Member fails to attend the Standards (Hearings) Sub Committee and where the Standards (Hearings) Sub Committee is not satisfied with their explanation for their absence from the hearing, the Standards (Hearings) Sub Committee may in the first instance, have regard to any written representations submitted by the Subject Member and may resolve to proceed with the hearing in the Subject Member's absence and make a determination or, if satisfied with the Subject Member's reasons for not attending the hearing, adjourn the hearing to another date. The Standards (Hearings) Sub Committee may resolve in exceptional circumstances, that it will proceed with the hearing on the basis that it is in the public interest to hear the allegations expeditiously.¹

¹ Janik v Standards Board for England & Adjudication Panel for England (2007)

2. Right to be accompanied by a representative

The Subject Member may choose to be accompanied and/or represented at the Standards (Hearings) Sub Committee by a fellow councillor, friend or colleague.

3. The conduct of the hearing

3.1 Subject to paragraph 3.2 below, the order of business will be as follows:

- (a) elect a Chairman;
- (b) apologies for absence;
- (c) declarations of interests;
- (d) in the absence of the Subject Member, consideration as to whether to adjourn or to proceed with the hearing (refer to paragraph 1.11 above);
- (e) introduction by the Chairman, of members of the Standards (Hearings) Sub Committee, the Independent Person, Monitoring Officer, Investigating Officer, legal advisor, complainant and the Subject Member and their representative;
- (f) to receive representations from the Monitoring Officer and/or Subject Member as to whether any part of the hearing should be held in private and/or whether any documents (or parts thereof) should be withheld from the public/press;
- (g) to determine whether the public/press are to be excluded from any part of the meeting and/or whether any documents (or parts thereof) should be withheld from the public/press.

3.2 The Chairman may exercise their discretion and amend the order of business, where they consider that it is expedient to do so in order to secure the effective and fair consideration of any matter.

3.3 The Standards (Hearings) Sub Committee may adjourn the hearing at any time.

3.4 Presentation of the complaint

- (a) The Investigating Officer presents their report including any documentary evidence or other material and calls their witnesses. No new points will be permitted;
- (b) The Subject Member or their representative may question the Investigating Officer and any witnesses called by the Investigating Officer;
- (c) The Standards (Hearings) Sub Committee may question the Investigating Officer upon the content of their report and any witnesses called by the Investigating Officer.

3.5 Presentation of the Subject Member's case

- (a) The Subject Member or their representative presents their case and calls their witnesses;
- (b) The Investigating Officer may question the Subject Member and any witnesses called by the Subject Member;
- (c) The Standards (Hearings) Sub Committee may question the Subject Member and any witnesses called by the Subject Member.

3.6 **Summing up**

- (a) The Investigating Officer sums up the complaint;
- (b) The Subject Member or their representative sums up their case.

3.7 **Views/Submissions of the Independent Person**

The Chairman will invite the Independent Person to express their view on whether or not they consider that on the facts presented to the Standards (Hearings) Sub Committee, there has been a breach of the Code of Conduct.

3.8 **Deliberations of the Standards (Hearings) Sub Committee**

Deliberation in private

- (a) The Standards (Hearings) Sub Committee will adjourn the hearing and deliberate in private (assisted on matters of law by a legal advisor) to consider whether or not, on the facts found, the Subject Member has failed to comply with the Code of Conduct.
- (b) The Standards (Hearings) Sub Committee may at any time come out of private session and reconvene the hearing in public, in order to seek additional evidence from the Investigating Officer, the Subject Member or the witnesses. If further information to assist the Panel cannot be presented, then the Panel may adjourn the hearing and issue directions as to the additional evidence required and by whom.

Announcing decision on facts found

- 3.9 (a) The Standards (Hearings) Sub Committee will reconvene the hearing in public and the Chairman will announce whether or not on the facts found, the Panel considers that there has been a breach of the Code of Conduct
- (b) Where the Standards (Hearings) Sub Committee considers that there has been a breach of the Code of Conduct, the Chairman will invite the Independent Person, the Subject Member and the Monitoring Officer to make their representations as to whether or not any sanctions should be applied and, if so, what form they should take.
- (c) When deciding whether to apply one or more sanctions, the Standards (Hearings) Sub Committee will ensure that the application of any sanction is reasonable and proportionate to the Subject Member's behaviour. The Standards (Hearings) Sub Committee will consider the following questions along with any other relevant circumstances or other factors specific to the local environment:
 - (i) What was the Subject Member's intention and did they know that they were failing to follow the District/[Parish Council's Code of Conduct?
 - (ii) Did the Subject Member receive advice from officers before the incident and was that advice acted on in good faith?
 - (iii) Has there been a breach of trust?
 - (iv) Has there been financial impropriety, e.g. improper expense claims or procedural irregularities?
 - (v) What was the result/impact of failing to follow the District/Parish Council's Code of Conduct?

- (vi) How serious was the incident?
 - (vii) Does the Subject Member accept that they were at fault?
 - (viii) Did the Subject Member apologise to the relevant persons?
 - (ix) Has the Subject Member previously been reprimanded or warned for similar misconduct?
 - (x) Has the Subject Member previously breached the District/Parish Council's Code of Conduct?
 - (xi) Is there likely to be a repetition of the incident?
- (d) Having heard the representations of the Independent Person, the Subject Member and the Monitoring Officer on the application of sanctions, the Standards (Hearings) Sub Committee will adjourn and deliberate in private.
- (e) If evidence presented to the Standards (Hearings) Sub Committee highlights other potential breaches of the District/Parish Council's Code of Conduct, then the Chairman will outline the concerns of the Sub Committee and recommend that the matter be referred to the Monitoring Officer as a new complaint.

Final Decision

- 3.10 (a) Where the complaint has a number of aspects, the Standards (Hearings) Sub Committee may reach a finding, apply a sanction and/or make a recommendation on each aspect separately.
- (b) The Standards (Hearings) Sub Committee will make its decision on the balance of probabilities, based on the evidence before it during the hearing.
- (c) Having taken into account the Independent Person, the Subject Member and the Monitoring Officer's representations on the application of sanctions, the Standards (Hearings) Sub Committee will reconvene the hearing in public and the Chairman will announce:
- (i) the Panel's decision as to whether or not the Subject Member has failed to comply with the Code of Conduct, and the principal reasons for the decision;
 - (ii) the sanctions (if any) to be applied;
 - (iii) the recommendations (if any) to be made to the District/Parish] Council or Monitoring Officer;
 - (iv) that there is no right of appeal against the Panel's decision and/or recommendations.

4. Range of possible sanctions

- 4.1 Subject to paragraph 4.4 below, where the Standards (Hearings) Sub Committee determines that the Subject Member has failed to comply with the requirements of the Code of Conduct, any one or more of the following sanctions may be applied/recommended:
- (a) Recommending to the District/Parish Council that the Subject Member be issued with a formal censure (i.e. the issue of an unfavourable opinion or judgement or reprimand) by motion;
 - (b) Recommending to the Subject Member's Group Leader or in the case of an ungrouped Member to the District Council or in the case of a Parish Council

- to the Parish Council that the Subject Member be removed from one or more Committees or Sub-Committees of the District/Parish Council;
- (c) Recommending to the Leader of the District Council that the Subject Member be removed from the Cabinet or removed from particular Portfolio responsibilities;
- (d) Instructing the Monitoring Officer or recommendation to the Parish Council to arrange training for the Subject Member;
- (e) Recommending to the District/Parish Council that the Subject Member be removed from one or more outside appointments to which they have been appointed or nominated by the Council;
- (f) Recommending to the District/Parish Council that it withdraws facilities provided to the Subject Member by the Council, such as a computer, website and/or email and internet access;
- (g) Recommending to the District/Parish Council the exclusion of the Subject Member from the District/Parish Council's offices or other premises, with the exception of meeting rooms as necessary for attending District/Parish Council Committee and Sub-Committee meetings;
- (h) Reporting the findings of the Sub Committee to the District/Parish Council for information;
- (i) Instructing the Monitoring Officer to apply the Informal Disputes Resolution Procedure ;
- (j) Sending a formal letter to the Subject Member;
- (k) Recommending to the District/Parish Council to issue a press release or other form of publicity;
- (l) Publishing its findings in respect of the Subject Member's conduct in such manner as the Sub Committee considers appropriate.

4.2 The Standards (Hearings) Sub Committee has no power to suspend or disqualify the Subject Member or to withdraw basic or special responsibility allowances.

4.3 The Standards (Hearings) Sub Committee may specify that any sanction take effect immediately or take effect at a later date and that the sanction be time limited.

5. Publication and notification of the decisions and recommendations of the Standards (Hearings) Sub Committee

5.1 Within 10 working days of the announcement of the decision and/or recommendations of the Sub Committee, the Monitoring Officer will publish the name of the Subject Member and a summary of the Sub Committee's decision and/or recommendations and reasons for such decisions and recommendations on the District Council's website.

5.2 Within 10 working days of the announcement of the decision and/or recommendations of the Sub Committee, the Monitoring Officer will provide a full written decision and the reasons for the decision, including any recommendations, in the format of the Decision Notice template below to:

- (a) the Subject Member;
- (b) the Complainant;
- (c) [the Clerk to the Parish Council;
- (d) Kent County Council's Standards Committee (*applicable only where the Subject Member is serving at both District and County level*);
- (e) The District Council's Standards Committee (*applicable only where the Subject Member is serving at District and County level*).

- 5.3 The Monitoring Officer will report the decision and/or recommendations of the Standards (Hearings) Sub Committee to the next ordinary meeting of the Standards Committee.

TEMPLATE - DECISION NOTICE (of Hearing Panel)

Complaint No: xxxx

On [insert date], the Hearing Panel of the [insert name] Council considered a report of an investigation into the alleged conduct of [insert name of councillor], a member of [insert authority name]. A general summary of the complaint is set out below.

Complaint summary

[Summarise complaint in numbered paragraphs as set out in the Investigating Officer's report to the Hearing Panel]

Consultation with Independent Person

[Summarise the Independent Person's views in numbered paragraphs]

Findings

After considering the submissions of the parties to the hearing and the views of the Independent Person, the Hearing Panel reached the following decision(s):

[Summarise the finding of facts and the Hearing Panel's decision against each finding of fact in numbered paragraphs as set out in the Investigating Officer's report to the Hearing Panel, but substitute the Investigating Officer for the Hearing Panel. Please note that the Hearing Panel's findings may differ from that of the Investigating Officer]

The Hearing Panel also made the following recommendation(s)

[Detail recommendations]

Sanctions applied

The breach of the [insert authority name] Code of Conduct warrants a [detail sanctions applied].

Appeal

There is no right of appeal against the Hearing Panel's decision.

Notification of decision

This decision notice is sent to the:

- Councillor [name of councillor]
- Complainant
- [Clerk to the xxxx Parish/Town Council];
- Kent County Council's Monitoring Officer *[applicable only where the Councillor is serving at both [Borough] [City] [District] and County level]*

Additional help

If you need additional support in relation to this decision notice or future contact with the [Borough] [City] [County] [District] Council, please let us know as soon as possible. If you have difficulty reading this notice, we can make reasonable adjustments to assist you, in line with the requirements of the Equality Act 2010. We can also help if English is not your first language. Please refer to the attached Community Interpreting Service leaflet or contact our Customer Services on [insert telephone number] or email [insert email address]

Signed:

Date

Print name:

Chairman of the Hearing Panel

xxxxxxx [Council address]

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Draft Additional Council Procedure Rule

1. A Member with a Disclosable Pecuniary Interest or Other significant Interest in a matter to be considered, or being considered at a meeting must:
 - (a) disclose the interest; and
 - (b) explain the nature of that interest at the commencement of that consideration or when the interest becomes apparent (subject to paragraph 5 of this Standing Order); and unless he/she has been granted a dispensation:
 - (c) not participate in any discussion of, or vote taken on, the matter at the meeting; and
 - (d) withdraw from the meeting room whenever it becomes apparent that the business is being considered; and
 - (e) not seek improperly to influence a decision about that business.

2. A Member with an Other Significant interest, may attend a meeting but only for the purpose of making representations, answering questions or giving evidence relating to the business, provided that the public are also allowed to attend the meeting for the same purpose, whether under a statutory right or otherwise. The Member will withdraw from the meeting room immediately after making representations, answering questions or giving evidence.

3. Where a Member with a Disclosable Pecuniary Interest or Other Significant Interest in a matter under discussion (unless a dispensation has been granted in accordance with paragraph 1 of this Procedure Rule), chooses to participate in the discussion and vote, the Chairman will refuse to count the 'vote' of the Member concerned, for the 'vote' will have been cast illegally and cannot be considered to be a vote at all. The Chairman may apply the rules in Council Procedure Rules 27.3 and 27.4 relating to the 'improper obstruction of business'.

4. The Chairman may request that a Member declare a Disclosable Pecuniary Interest or an Other Significant Interest and, if appropriate, leave the meeting room, should he/she have reason to believe that the provisions of the Code of Conduct and/or this Procedure Rule are being breached.

Scheme of Delegation to Officers

Additional Delegations to the Monitoring Officer

1. Appointed as Proper Officer for the purposes of receiving applications for dispensation pursuant to section 33(1) of the Localism Act 2011.

2. In consultation with the Chief Executive to grant dispensations to Members pursuant to section 33(2) of the Localism Act 2011 to speak only or to speak and vote where:
 - (i) so many members of the decision-making body have disclosable pecuniary interests in a matter that it would impede the transaction of the business; or

- (ii) without a dispensation, no member of the executive would be able to participate on a particular item of business.
- 3. Appointed to receive complaints relating to alleged breaches of the adopted Code of Conduct and to process complaints in accordance with the adopted Arrangements for dealing with Code of Conduct Complaints.
- 4. Power to appoint Members of the Standards Committee to the Standards (Assessment) Sub Committee and the Standards (Hearings) Sub Committee

REVIEW OF CONSTITUTIONAL PROCESSES APPLYING TO URGENT DECISIONS

To: **Constitutional Review Working Party – 26 June 2012**

By: **Democratic Services & Scrutiny Manager**

Classification: **Unrestricted**

Summary: **At the request of the Standards Committee, to reconsider previous decisions taken by the Working Party**

For Decision

1.0 Introduction and Background

1.1 On 22 March 2012 the Overview & Scrutiny Panel agreed:

“That after an urgent decision has been made, the Ward Members of the affected Ward are notified.

“That Cabinet Member decisions and key decisions by Council officers are recorded and distributed to Members along with the advice from officers leading to the decision.”

1.2 When it considered the matter on 26 April 2012 the Constitutional Review Working Party agreed:

“That Access to information Procedure Rule 20.1 be amended to read:

‘Reports intended to be taken into account

‘When an individual Cabinet Member is taking a key decision they must make that decision considering a report from the relevant officer and that decision must not be made until 5 clear working days after receipt of that report.

‘When an officer is taking a key decision they must make that decision considering a report and that decision must not be made until 5 clear working days after receipt of that report.’

1.3 This recommendation was considered by Standards Committee on 9 May 2012. Members of the Standards Committee felt that the recommendation of the Working Party did not address the issue of Ward Members being notified of an urgent decision. They also expressed concern with the decision of the Constitutional Review Working Party suggesting that urgent (individual) decisions could not be delayed for five clear working days. Standards Committee deferred consideration of the report, advising that it should be referred back to the Working Party for review.

2.0 Current Situation

2.1 The Constitutional Review Working Party is now asked to reconsider the decisions it took on 26 April 2012, in the light of the views expressed by the Standards Committee.

2.2 Informing Ward members of Urgent decisions

- 2.2.1 One of the difficulties in prescribing how and when Ward Members are informed of urgent decisions relates to the nature of urgent decisions themselves. For the sake of simplicity, such decisions could be divided into those that are of a commercial or contractual nature, and those that are not. The latter might be urgent because of a natural disaster or urgent simply because, for unforeseen reasons, there ends up being no scheduled Cabinet meeting at which the decision can be taken.
- 2.2.2 If an urgent decision is of a commercial or contractual nature it is possible that the content of a decision report could be “exempt” from publication within the meaning of Schedule 12A of the Local Government Act 2000. Whilst elected Members have a generalised right to access exempt information, officers naturally try to limit access to information which, if inadvertently made public, might compromise commercial negotiations or a bidding process.
- 2.2.3 On the other hand, there may be very little confidential about a policy document that needs to be approved urgently for want of a scheduled Cabinet meeting to which it can be put. Naturally, officers would programme such work to be approved at a scheduled meeting, but sometimes, for example, late publication of statutory Regulations relevant to the decision may mean that original timetables cannot be achieved.
- 2.2.4 Thus it appears that access by Ward Members to urgent decisions might need to vary according to the nature of the decision being taken. The following sets out possible options that the Working Party may wish to consider:
- a) In cases where the content of the decision report is not exempt within the meaning of Schedule 12A of the Local Government Act 2000, Ward Members will be notified of the decision as soon as the decision is taken
 - b) In cases where the content of the decision report is exempt within the meaning of Schedule 12A of the Local Government Act 2000, and that exemption does not relate to commercial or contractual matters, Ward Members will be notified of the decision as soon as the decision has been taken, but without disclosure of the exempt matters (for example, if the exemption relates to the identification of individual or personal matters, those details will not be disclosed until after the decision has been implemented)
 - c) In cases where the content of the decision report is exempt within the meaning of Schedule 12A of the Local Government Act 2000, and that exemption relates to commercial or contractual matters, Ward Members will be notified of the decision as soon as the decision has been implemented

2.3 Period for implementing urgent decisions

- 2.3.1 The Constitutional Review Working Party on 26 April 2012 agreed the following:

“That Access to information Procedure Rule 20.1 be amended to read:

‘Reports intended to be taken into account

‘When an individual Cabinet Member is taking a key decision they must make that decision considering a report from the relevant officer and that decision must not be made until 5 clear working days after receipt of that report.

'When an officer is taking a key decision they must make that decision considering a report and that decision must not be made until 5 clear working days after receipt of that report.'

2.3.2 It is suggested that this decision can be reaffirmed, despite the concerns expressed by the Standards Committee on 9 May 2012. The suggested requirement to produce decision reports for executive decisions taken by portfolio holders or officers, and not to implement the decisions for five clear working days, is consistent with the general requirements of the Access to Information Regulations and other provisions within the constitution. However, the suspension of implementation for the five clear working days would clearly be over-ridden by any application of the various urgency procedures covered elsewhere within the constitution. In those circumstances, a decision report would still be required, but the decision could then be implemented immediately following compliance with the relevant urgency procedures.

2.3.3 Note that such a decision report would be published through the Council's committee document management system, in compliance with any "exemption" that is applied under Schedule 12 of the Local Government Act 2000.

3.0 Corporate Implications

3.1 Financial and VAT

3.1.1 There are no direct financial implications arising from this report.

3.2 Legal

3.2.1 Any changes made to procedure rules will require the Council's constitution to be amended.

3.3 Corporate

3.3.1 The Council's constitution sets out the rules governing the Council's business.

3.4 Equity and Equalities

3.4.1 None specific

4.0 Recommendation(s)

4.1 That the Constitutional Review Working Party considers any changes necessary to the constitutional procedure rules. In particular:

4.1.1 Whether to adopt any of the suggestions outlined in section 2.2.4 to govern informing Ward Members about urgent decisions.

4.1.2 Whether to reaffirm its previous decision regarding reports to be taken into account when individual executive decisions are taken, as set out at section 1.2 above

5.0 Decision Making Process

5.1 Further recommendations by the Working Party will be submitted verbally to the next meeting of the Standards Committee, whose agreed recommendations will then be referred to full Council.

Future Meetings:

Standards Committee	28 June 2012
Council	12 July 2012

Contact Officer:	Glenn Back, Democratic Services & Scrutiny Manager, Ext 7187
Reporting to:	Harvey Patterson, Corporate & Regulatory Services Manager and Monitoring Officer, Ext 7005

Annex List

	None
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Background Papers

Title	Details of where to access copy
None	

Corporate Consultation Undertaken

Finance	N/A
Legal	Harvey Patterson, Corporate & Regulatory Services Manager and Monitoring Officer, Ext 7005

LEADER'S REPORT

To: **Constitutional Review Working Party – 26 June 2012**

By: **Democratic Services and Scrutiny Manager**

Classification: **Unrestricted**

Ward: **All Wards**

Summary: To re-consider Constitutional Procedure Rule 2.2.

For Decision

1.0 Introduction and background

- 1.1 Following consideration of the recommendations made by the Working Party at its meeting on 26 April 2012, the Standards Committee recommended that Council Procedure Rule (CPR) 2.2 be amended as follows:

'The Leaders of the ~~Opposition~~ any other Political Group may comment on the Leader's Report. The comments of the Leaders of the ~~Opposition~~ and other Political Groups shall be limited each to five minutes. The other Group Leaders will comment in an order determined by the number of Councillors within those Political Groups, with the largest Group commenting first, and so on.

'The Leader has a right of reply to each Group Leader limited to two minutes, in hierarchical order, to any comments made on his/her report.

'~~Other members may make comments and ask questions on the Leaders' Report, subject to the discretion of the Chairman and t~~ The total time (including time slots as mentioned above) being will be limited to 30 minutes.

'The Leader of the Council, ~~the Leader of the Opposition~~ and the Leader of any other Political Group may appoint substitutes to speak on their behalf.

'No motions may be moved nor resolutions passed under this item.'

- 1.2 Unfortunately, the report that was considered by the Standards Committee on 9 May 2012 had omitted the first line of CPR 2.2:

"The Leader of the Council may make an oral report, not exceeding ten minutes, on key issues arising since the last meeting of Council".

- 1.3 That meant that the Standards Committee when making its recommendation did not consider whether to retain or to remove the first line of CPR 2.2 as shown above in paragraph 1.2. Therefore consideration must be given by the Constitutional Review Working Party whether it wishes to recommend to Standards the retention of the original first line of CPR 2.2.

- 1.3 If the Working Party recommend to restore CPR 2.2, then the Working Party is also asked to be aware that the total of the time slots for Members speaking as outlined in the amended CPR 2.2, when including the 10 minutes allowed for the Leader’s oral report, would add up to 31 minutes. This is made up as follows:

	Time allowed – mins
Leader of the Council’s oral report	10
Comments by the Leaders of the other Political Groups (3 x 5 mins)	15
Reply by Leader of the Council to other Group Leaders (3 x 2 mins)	6
TOTAL	31

This total would exceed the limit of the total time referred to in CPR 2.2 (30 minutes) by one minute.

2.0 The Current Position

The Working Party may wish to address the inconsistency in time allowed by changing the total time in CPR 2.2 from 30 minutes to 31 minutes. Alternatively the Working Party may wish to consider amending some of the time slots for Members speaking in order to reduce the amount of total time allocated to less than 30 minutes.

3.0 Corporate Implications

3.1 Financial and VAT

- 3.1.1 There are no financial or VAT implications

3.2 Legal

- 3.2.1 If changes are made to the existing Leader’s report arrangements, the Council’s constitution will need to be amended.

3.3 Corporate

- 3.3.1 The Council’s constitution sets out the basic rules governing the Council’s business.

3.4 Equity and Equalities

- 3.4.1 There are no equalities implications.

4.0 Recommendation

- 4.1 That the Working Party recommends to Standards Committee that:

- a) CPR 2.2 is amended to reinstate the missing first paragraph as follows:
“The Leader of the Council may make an oral report, not exceeding ten minutes, on key issues arising since the last meeting of Council”

And that either:

- b) Council Procedure Rule 2.2 be further amended to read: "...The total time (including time slots as mentioned above) ~~being~~will be limited to 31 minutes."
- c) Another way of addressing the discrepancy of the total time allowed for the Leaders report is agreed.

5.0 Decision Making Process

- 5.1 Any recommendations made by the Constitutional Review Working Party will be submitted verbally to the next meeting of the Standards Committee.

Future Meetings: Standards Committee Council	Date: 28 April 2012 Date: 12 July 2012
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Contact Officer:	Glenn Back, Democratic Services and Scrutiny Manager , Ext 7187
Reporting to:	Harvey Patterson, Corporate and Regulatory Services Manager, Ext 7005

Annex List

None	
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Background Papers

Title	Details of where to access copy
<i>None</i>	

Corporate Consultation Undertaken

Finance	N/A
Legal	Harvey Patterson, Corporate and Regulatory Services Manager. Ext 7005

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THANET DISTRICT COUNCIL DECLARATION OF INTEREST FORM

Do I have a personal interest?

You have a **personal interest** in any business of your authority where it relates to or is likely to affect:

- a) An interest you must **register**.
- b) An interest that is not on your register, but where the well-being or financial position or you, members of your family (spouse; partner; parents; in laws; step/children; nieces and nephews), or people with whom you have a close association (friends; colleagues; business associates and social contacts that can be friendly and unfriendly) is likely to be affected by the business of your authority more than it would affect the majority of:
 - Inhabitants of the ward or electoral division affected by the decision (in the case of the authorities with electoral divisions or wards.)
 - Inhabitants of the authority's area (in all other cases)

These two categories of personal interests are explained in this section. If you declare a personal interest you can remain in the meeting, speak and vote on the matter, unless your personal interest is also a prejudicial interest.

Effect of having a personal interest in a matter

You must declare that you have a personal interest, **and the nature of that interest**, before the matter is discussed or as soon as it becomes apparent to you except in limited circumstances. Even if your interest is on the register of interests, you must declare it in the meetings where matters relating to that interest are discussed, unless an exemption applies.

When an exemption may be applied

An exemption applies where your interest arises solely from your Membership of, or position of control or management on:

1. Any other body to which you were appointed or nominated by the authority.
2. Any other body exercising functions of a public nature (e.g. another local authority)

Is my personal interest also a prejudicial interest?

Your personal interest will also be a **prejudicial interest** in a matter if all of the following conditions are met:

- a) The matter does not fall within one of the **exempt categories** of decisions
- b) The matter affects **your financial interests** or relates to a **licensing or regulatory matter**.
- c) A member of public, who knows the relevant facts, would **reasonably think your personal interest is so significant** that it is likely to prejudice your judgement of the public interest.

What action do I take if I have a prejudicial interest?

- a) If you have a **prejudicial interest** in a matter being discussed at a meeting, you must declare that you have a prejudicial interest as the nature of that interest becomes apparent to you.
- b) You should then leave the room, **unless members of the public are allowed to make representations, give evidence or answer questions about the matter**, by statutory right or otherwise. If that is case, you can also attend the meeting for that purpose.
- c) However, you must immediately leave the room once you have finished or when the meeting decides that you have finished (if that is earlier). You cannot remain in the public gallery to observe the vote on the matter.

d) In addition you must not seek to **improperly influence** a decision in which you have a prejudicial interest.

This rule is similar to your general obligation not to use your position as a Member improperly to your or someone else's advantage or disadvantage.

What if I am unsure?

If you are in any doubt, Members are strongly advised to seek advice from the Monitoring Officer or the Democratic Services Manager well in advance of the meeting.

DECLARATION OF PERSONAL AND, PERSONAL AND PREJUDICIAL INTERESTS

MEETING

DATE..... **AGENDA ITEM**

IS YOUR INTEREST:

PERSONAL

PERSONAL AND PREJUDICIAL

NATURE OF INTEREST:

.....
.....
.....

NAME (PRINT):

SIGNATURE:

Please detach and hand this form to the Committee Clerk when you are asked to declare any interests.